

BUILDERS OF MODERN INDIA  
**Badruddin Tyabji**  
 A.G.Noorani

# Badruddin Tyabji

नवपा रतश्चिह्निकां नवद्वारत निर्वहताकाश  
 नव धारत निर्वहताकाश  
 आधुनिक भारत के निर्माता BUILDERS OF MODERN INDIA आधुनिक  
 भारतेर अष्टौ आधुनिक तावत निर्माता आधुनिक भारतना धरवेया अद्वैत  
 धारत निर्वहताकाश आधुनिक भारतचे शिल्पकार आधुनिक भारतेर  
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*Builders of Modern India*

# **BADRUDDIN TYABJI**

**A.G.NOORANI**



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TO MY DEAR UNCLE AND AUNT  
MR. AND MRS. M.S. CHOONAVALA  
WHO ARE NO MORE








## ABOUT THE SERIES

The object of the Series is the publication of biographies of those eminent sons and daughters of India who have been mainly instrumental in bringing about our national renaissance and in carrying on the struggle for independence.

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## Contents

	Preface	
I	Family, Birth and Education	1
II	At the Bar	8
III	Beginnings of Public Life	15
IV	Muslim Education	21
V	Rise to Pre-eminence	29
VI	The Bombay Presidency Association	51
VII	In the National Movement	56
VIII	The Great Debate	64
IX	The Great Judge	80
X	Education and Politics	88
XI	The Last Days	97
XII	Summing Up	115

## APPENDICES

I	Memorandum on Muslim Education	121
II	Tyabji's Presidential Address to the Third Session of the Indian National Congress	124
III	Letter from A.O. Hume to the Secretary, Congress Standing Committee	132
IV	(A) Letter from Tyabji to <i>The Pioneer</i>	134
	(B) Resolution Passed by Congress to Reassure the Muslims	136

V	Official Letter from Ameer Ali to Tyabji	137
VI	Official Letter from Tyabji to Ameer Ali	139
VII	Personal Letter from Tyabji to Ameer Ali	141
VIII	Letter from Sir Syed Ahmad Khan to Tyabji	143
IX	Letter from Tyabji to Sir Ahmad Khan	145
X	Letter from Tyabji to Muslims of Ellore	147
XI	Letter from Tyabji to Hume	151
XII	Dr. M.R. Jayakar on Tyabji	153
	Bibliography	158
	Index	159



## Preface

**T**IME and again in the vast sweep of history, but only rarely in a span of generations, there emerges a man who towers above his fellowmen by the sheer force of his character and power of intellect. He sees the verities of their situation with a clear vision and enunciates the path they could follow. Neither passage of time nor change of circumstances affects the validity of the guidance given by him.

Badruddin Tyabji was one such titanic figure. He breathed his last in 1906. The issues that made him famous seem but battles of the past, yet he remains astonishingly relevant. Cataclysmic changes have taken place since his times, but the path he pointed out then with such compelling logic, such moving eloquence, seems at this distance to have been ever the true one, indeed the only one, to build the India he loved. In the days when the word “secularism” had no place in the political vocabulary, he spelt out its meaning with all its nuances and, with a consistency truly remarkable, stuck to it all through his career.

In the main, he was concerned to lift the Muslims from the decadence of their recent past and guide them into the national mainstream so that they could be at one with the rest of their countrymen in India’s march to her destiny, and yet remain true to themselves—ardent Indians and devout Muslims at one and the same time. This outlook was no compromise. It was one consistent, integral whole fashioned by a man of transparent integrity. It is the lot of such to be misunderstood by extremists on both sides; their lot, too, it must fairly be acknowledged, to win recognition transcending narrow loyalties.

Badruddin Tyabji was a man of remarkable roles: there was the statesman, the recognised leader of men; the dedicated social reformer and educationist and the gifted advocate, one of the leaders of the Bar, who was also to become and be known as a truly great judge. Each was an authentic part of himself. On many a life he made his impact. The late President Zakir Husain has said of him: "I did not have the privilege of knowing the great Badruddin Tyabji, but as a schoolboy a good Headmaster had introduced me to his great services and I had read about him many things which perhaps I did not then quite understand, but which I could see began to affect my life from its early stages and helped to give it a direction which, inspite of the many other adverse factors influencing it, has, I feel, not changed its course in any considerable measure. The influence of great personalities, even at second hand, can be the most effective educative force. And this was the case with me with the late Badruddin Tyabji."

I am only too conscious of the deficiencies of this biography of so versatile a personality. It is far from being a definitive one. Mr. Husain Tyabji's *Badruddin Tyabi : A Biography* remains the exhaustive work, an example of immense labour and filial devotion. To him I am greatly indebted for placing the entire documentation he had at my disposal. Great debt is due also to *Mr. Mohsin Tyabji*, a grandson of Badruddin, for permitting me freely to go through the family papers in his possession. It was a most rewarding quest, the writer being enabled thus to bring to light for the first time (in Chapter XI) the last letters ever written by the patriarch. His writings were pellucid. More cannot be said of them. But he was an orator of majestic power. Many of the campaigns he fought were on the public platform. I have quoted at length from his speeches and from his correspondence, for they reveal the man better than any contemporary account.

Thanks are due to Messrs Thacker and Co. Ltd., Bombay, Mr. Husain B. Tyabji's publishers, for permission to quote from *Badruddin Tyabji: A Biography* and to Mr. A. R. Dawood, General Secretary, Anjuman-e-Islam, Bombay, for his immense help in



enabling the writer to consult the Anjuman's records. My esteemed friend Mr. A.A.A. Fyzee's initial suggestion, which led to the writing of this book, was backed up with steady and sound advice. Laeeq and Zafar Futehally's constant encouragement helped more than they perhaps realise.

Finally, this book would not have seen the light of the day at all but for the understanding, more correctly indulgence, shown by the Publications Division. Much of the work on the book was done in the Yeravda Central Prison, Poona, in the last quarter of 1965. Thereafter, a month or a little more should have sufficed but other pre-occupations intervened. The Publications Division kindly extended the time for the submission of the manuscript repeatedly to suit my convenience.

None other than the writer, of course, is responsible for any error of fact or comment this book might contain.

Bombay

A.G. Noorani



## Family, Birth and Education

**T**HE revolt of 1857 is the great divide in modern Indian history. Before that event, and for a year thereafter, India was ruled by the East India Company under a Charter from the British Crown. In 1858, the British Parliament passed the Government of India Act, whereby the country's administration was taken over by the British Crown. Soon after the Act became law, Queen Victoria issued her famous Proclamation on November 1, 1858. To heal the wounds of suppression of the Mutiny, the Queen not only proclaimed clemency to all offenders save those guilty of murder, but also said: "It is our will that, so far as may be, our subjects of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified by their education, ability, and integrity, duly to discharge." The document also guaranteed freedom of religion, but it was the promise of equality, of "the equal and impartial protection of the law," which reassured Indian opinion, sorely in need of reassurance after the upheavals of the previous year.

Badruddin Tyabji was then a boy of fourteen, highly intelligent, sensitive, and showing all the promise of a bright future. He turned out eventually to be brighter than anyone could have imagined. Badruddin did not follow in the steps of his father, Tyab Ali, a poor man who rose to be a merchant prince through business acumen and character. His renown lay in his dedication to securing fulfilment of the Queen's pledge of equality



by the grant of self-government to Indian subjects, even as her British subjects governed their own country. This, of course, entailed attention to a host of problems which had to be resolved to forge the unity needed to make Britain live up to Queen Victoria's Proclamation.

The man Tyab Ali sired proved more than equal to the challenge. Different as they were in so many ways, in character and catholicity of outlook, the father and the son were remarkably alike.

Badruddin's grandfather, Bhai Mian, lived originally in Cambay, a port located in western India. He left Cambay and came to Bombay, where he prospered. But the great fire which occurred in February 1803 destroyed all that he had. Reduced to poverty, he returned to Cambay, where his son Tyab Ali was born on September 20, 1803. At a very early age Tyab Ali showed extraordinary qualities of mind. He was looked after by his grandfather, Haji Bhai.<sup>1</sup> The family had hard days ahead. Tyab Ali was only eight when Haji Bhai died. As Mr. Asaf A. A. Fyzee has written, Tyab Ali's life "is a veritable romance. His father was a petty merchant. Beginning life as a penniless urchin, Tyabjee did odd jobs, repaired umbrellas, sold onions, hawked old goods, became a pedlar, sold milinery and toys, and ended up as a merchant prince worth 5 lakhs at his death in 1863. But this was not all. He was a man of energy and character. He picked up a little Arabic, Persian Hindustani and Gujarati during his busy and eventful life. After acquiring wealth and a recognized position in Bombay, he sent his sons to England for a foreign education. A man of broad outlook and modern ideas, he nevertheless kept a close touch with religion. He travelled in Europe, and on his return performed the Haj; and he was a mulla and for some time *amil* of Bombay." (*Amil*—deputy of the chief

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1 *The Autobiography of Tyabjee Bhoymeeah (Tyab Ali)*, edited with an Introduction and Notes by Asaf A. A. Fyzee, *The Journal of the Asiatic Society of Bombay*, Volume 36-37, Supplement 1961-62, published in April 1964.

*mulla*.) On Haji Bhai's death Bhai Mian brought his son Tyab Ali to Bombay. Before long Bhai Mian died and Tyab Ali was left all to himself. Mr. Husain B. Tyabji mentions<sup>2</sup> that Tyab Ali got his first break in life with a loan of Rs 5,000 from one Wadia and the second stroke of luck was that a prosperous merchant, Mulla Meher Ali, gave his daughter in marriage to Tyab Ali. Through sheer industry and integrity. Tyab Ali rose to become a merchant prince. Although a *mulla*, he was liberal in outlook and made friends widely. Tyab Ali has written an autobiography. Besides, he also started keeping a family chronicle called *Kitab-e-Akhbar-e-Kabila-e-Tyabi* (Book of News about Tyab's Tribe) in which he and his descendants were expected to enter all events considered important for the family.

Tyab Ali was a pillar of the Sulaimani Bohra community. The word Bohra means a merchant. The Bohras are a flourishing trading community established mostly in western India. Most of them are descendants of those converted to Islam by the Arab missionaries who came from Yemen to India in the 11th century. In 1588, the High Priest of Bohras, an Arab of Yemen, died and the community split into two. The Gujarati Bohras chose Syedna Dawood of Gujarat as their High Priest, while the rest pledged allegiance to Syedna Sulaiman, an Arab invested with authority from Yemen. Hence the division of the community between the Dawoodi Bohras, (the followers of the Indian Head, known popularly as Mullaji Saheb), and the Sulaimani Bohras. The former constitute the bulk while the Sulaimanis are much fewer—in 1880 there were only a hundred of them in Bombay.

Badrudin's father, Tyab Ali, was a respected elder among the Sulaimani Bohras. Badruddin, his fifth son, was born on October 10, 1844. He received the usual schooling in the reading of the Koran and then joined the Dada Makba Madrassa where he learnt Hindustani, Persian, Gujarati and arithmetic. Two of

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2 *Badrudin Tyabji*, by Husain B. Tyabji, Thacker and Co. Ltd., Bombay, 1952, p. 4.



his brothers and he were the first three Muslim students to study at the Elphinstone Institution. Badruddin showed promise at a very early age. He was studious and earnest.

Tyab Ali was a stern disciplinarian and was held in much awe by the family. But it speaks for his breadth of outlook that he took such a keen interest in the education of his children, including his daughters, and sent all his sons to England for education. His third son, Camruddin, was the first Indian solicitor to be admitted to the profession in England, having been sent there at the age of 15. On his enrolment, difficulty arose as to the oath to be taken. Camruddin, the devout Muslim, could not take the oath of abjuration as solicitor “upon the true faith of a Christian.” A Full Court of the Queen’s Bench, consisting of Lord Justice Campbell, Mr. Justice Wightman and Mr. Justice Erle, permitted him merely to take the oath of allegiance to the Crown. The oaths were administered by the Master on the Koran which Camruddin held between his hands. *Punch*<sup>3</sup> remarked: “We are happy to add that the enlightened decision of Lord Campbell and his brethren did away with the last fragment of absurdity that affected to see a Christian in an Attorney.” Camruddin returned in 1858 to set up practice in Bombay the same year.

Badruddin decided to emulate his brother and study for the Bar in England. Before he left for Europe, Tyab Ali got him engaged. Badruddin also executed a Déclaration of Faith on April 27, 1860, which is very revealing.

“I, that is, Badruddin, son of Al-haj Shareef Tyab Ali, before leaving for England, and in full possession of my faculties, having attained the age of discretion, that is to say at the age of fifteen years, hereby pledge with my friends and relations and declare of my own free will without any coercion from anyone, that the foundations of my religious faith will be as strong after my return from England

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3 December 4, 1858



as they are strong today without the slightest change whatsoever. Should it happen otherwise and I should go back on this pledge, I myself admit that there would be few as false as myself in this world and I should be unfit to be a barrister.

“I should have been not only guilty of breach of faith with my parents, my family and my friends but also sinned against God.

Sd. Badruddin Tyabji.

April 27, 1860

The month of Shawwal Hijri year 1276.”

Badruddin’s elder brother, Shamsuddin, was astonished and commented on Badruddin’s rashness in signing the Declaration. “I know that the poor fellow is doing his best to carry out his promise, praying and fasting and observing the tenets of Islam in England, but I am sure that with the broadening of his mind, and his education in Europe, he will understand and appreciate these things better than he did, and yet, if he varies in the least by increase or decrease in his beliefs, what becomes of his promise to retain the same idea of his faith?”

At the age of fifteen and a half, Badruddin left for England. Such was Tyab Ali’s circle of friends by now that Badruddin was well-equipped with letters of introduction. He joined the Highbury New Park College in the middle of 1860, and was not slow to make his mark. The following year he was awarded a special Certificate of Honour, “for gaining a perfect knowledge of the French language in twelve months, and making great progress in the Classics and Mathematics.” On the occasion of the prize distribution, there was an elocution competition. Mr. Husain B. Tyabji writes: “There were four dramatic performances; one in Latin, of Plautus—one in French, of Moliere—one in English tragedy—Shakespeare’s *Julius Caesar*—and the last in English, a comedy. In all of them Badruddin took the leading part, playing Anthony’s role in *Julius Caesar*. A Committee of eight consisting

of Sir Fitzroy Kelly, Q.C., M.P., and seven other distinguished men awarded the first prize to Badruddin.” *The Morning Post* commented on “the versatility of Badruddin who sustained the leading character in each piece, although when he came to this country eighteen months ago, he possessed only a smattering of English and knew nothing of Latin or French. It was left to a committee of gentlemen to decide upon the merits of the actors with a view to the distribution of the Elocution prizes, and on their votes being added up, it was found that the Hindustani gentleman occupied the first place.” Tyab Ali was no doubt pleased at this. Yet, while in London, Badruddin also perfected his Urdu from Meer Aulad Ali of Lucknow who happened to be there. In later years, he never cared for an Indian who knew not his own country’s language. “We can hardly tolerate that our children should grow up in entire ignorance of our mother tongue or of our classics.”

He read widely and well but, unfortunately, his studies were interrupted because his eye-sight began to fail and he returned to Bombay in December 1864. His father, Tyab Ali, had died the year before.

Badruddin was married on January 16, 1865. The marriage was a success from the very start and proved a great source of strength to Badruddin throughout his life. His wife’s name was Moti (pearl) but Badruddin changed it to Rahat-un-Nafs (Peace of the Soul).<sup>4</sup>

The family had taken to Urdu before Badruddin went to England but, strangely enough, it was Badruddin who proved most adept at it despite his foreign sojourn. A few months after his return, writes Husain, “Badrudin wrote in the *Akhbar Book* a long article of ten foolscap pages in excellent, grammatically

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4 Husain B. Tyabji in his biography of *Badrudin Tyabji* (p. 322) renders ‘Rahat-un-Nafs’ as ‘Peace of the ‘Soul’s Delight’ would be literally a more correct rendering. ‘grance’ or ‘Delight’. Hence ‘Fragrance of the Soul’ or ‘Soul’s Delight’ would be literally a more correct rendering.

correct Urdu. He said that since there must be a language for the whole of India and for all the people, that language was Hindustani, as it was the language most commonly used in India... He therefore urged that this language should be cultivated. The language they spoke in the family was bad. It was incorrect grammatically, also idiomatically. He strongly advocated cultivation of the eloquent Delhi and Lucknow Urdu. Then, in eight elaborate sections he enumerated and discussed the mistakes of speech of the family, pointed out their grammatical and idiomatic errors, the peculiar usages and phrases which they ought to discontinue, and the colloquial and idiomatic expressions they should adopt.”<sup>5</sup>

Soon, his mother too died. Shortly after her death Badruddin left again for England on September 30, 1865, to resume his studies. His second visit to England was a particularly rewarding one. During this period he met Dadabhai Naoroji, Pherozeshah Mehta, W. C. Bonnerjee and Hormusji Wadia, who were to prove his life-long friends. He was called to the Bar in April 1867.

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5 *Badrudin Tyabji*, by Husain B. Tyabji, p. 22



## At the Bar

**B**ADRUDDIN TYABJI was enrolled as an advocate of the Bombay High Court on December 23, 1867, and was the first Indian Barrister to achieve that honour “This was the first instance of a Mahomedan receiving such high education and being a Barrister,” commented *The Times of India* (December 24, 1867). Doubtless, his brother, Camruddin, who had a flourishing practice as a solicitor, was a great help, but to win a place at the Bar, Badruddin had also to gain the confidence of a large number of the Solicitor clients. The lot of Indian Counsel on the Original Side of the Bombay High Court in those days was an unenviable one. As Sir Chimanlal Setalvad wrote in his memoirs: “... most of the leading solicitors’ firms were wholly European in their composition and they naturally preferred to brief European Barristers. The clients too preferred European Barristers to conduct their cases because they somehow believed that an European Barrister would carry more weight than an Indian Barrister before European Judges.”<sup>6</sup> Sir Chimanlal mentions that once after he had explained to an Indian solicitor who had briefed him in an important case how he was going to put it forth in Court, the latter replied, “If your skin were as fair as your arguments, I would have been sure of success.”

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<sup>6</sup> *Recollections and Reflections*, by Sir Chimanlal Setalvad, Padma Publications Ltd., Bombay, 1946.

Badraddin must have found the prospect very uncertain as he attended the Courts attired in the distinctive costume of the Bohras, i.e., in a long coat with a loose robe over it, and a turban of white fabric of gold. He did not change his style of dress even when he was elevated to the Bench.

Sir Pherozeshah Mehta and quite a few other Indian aspirants left the Original Side of the Bar. Badruddin, however, was able to survive, thanks to his brother and, eventually, became one of the leaders of the Bar. In the first year of his practice (1868), he earned Rs. 7,170. The income rose gradually and by 1890 he was earning Rs. 1,23,260. But between that success and his earlier beginnings there was many a battle to be fought and won.

Once he argued a criminal case before Mr. Justice Westropp, and got his client acquitted. The *Bombay Gazette*, nonetheless, characterized in its legal columns, Badruddin's speech as rigmarole and nonsensical. The next day, as soon as the Court began its proceedings, Mr. Justice Westropp said to Badruddin: "Mr. Tyabji,<sup>7</sup> I am glad to see you here, and also the reporter of The *Bombay Gazette*, as I wish to make some observations upon the report of the case which was conducted yesterday. The paper represents you to have made a 'rigmarole and a nonsensical speech' in defence of your client. As these remarks are not only unfair, but likely to do harm to a young barrister, I deem it my duty to observe that, in my opinion, there is not the slightest foundation for those remarks. I consider this case was most ably conducted by you, and that the acquittal of the prisoner was mainly due to the ability and skill with which you addressed the jury." The Minutes Book of the Bombay Bar Association testifies to his keen interest in the questions affecting the legal profession. "He soon got lost in the ever-increasing volume of his briefs," Sir H. P. Mody remarked in his biography of Sir Pherozeshah Mehta.

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<sup>7</sup> *Badraddin Tyabji*, by G. A. Natesan, G. A. Natesan & Co., Madras. Also quoted by Husain B. Tyabji.

The letters which Badruddin wrote to his son, Husain, years later reveal the effort that went into making him a truly great advocate. In themselves they would constitute an excellent guide to aspiring lawyers. "I see from your letters," he wrote to Husain on October 30, 1891, "that you are more inclined in favour of the Bar than the solicitor's profession and I see no reason why you should not become a barrister if you like to become one. The matter is one, however, that must be decided on solid, rational and practical grounds—and not on false notions of dignity and honour, some of which seem evidently to have a considerable influence on your mind. Though I am a barrister and naturally prejudiced in favour of my own profession and look upon it as perhaps the noblest profession in the world, I must tell you that it is not the profession so much as the mode of carrying it on which brings honour to a man. An able and conscientious solicitor who does his business well is quite as honourable as any barrister and much more so than hundreds of barristers who bring nothing but disgrace on the noble profession to which they belong. The emoluments of a successful solicitor are quite as large as the income of an ordinary successful barrister. It is only when you get absolutely to the top of the barrister's profession that its superiority becomes manifest. However, as you would evidently like to become a barrister, I need not say further upon the point."

A year later (October 3, 1892), he enquired, "Are you beginning to grasp the real principles and foundations of the law? For this is really what is necessary. Now, the reason of the law, says Lord Bacon, is the life of the law.<sup>8</sup> For he that knoweth not the reason shall soon forget his superficial learning."

Apparently Husain's progress pleased him. He wrote (November 16, 1894), "I am glad to learn that you are making steady progress with your law. The profession of the Bar is not very encouraging .except to those who are perfectly well-equipped. There are about forty young Indian Barristers in Bombay who

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<sup>8</sup> The actual quotation is: "The reason of the law is the life thereof."



are practically doing nothing and it is a wonder to me how they manage to live. The fault is entirely their own. There is plenty of work to be done if only you are competent to do it. That is why I have insisted above on your not returning to India till you are thoroughly conversant with the theoretical as well as the practical branches of the profession. There is just now a splendid field for capable young men.” Badruddin advised his son “to spend six months at least in the chambers of some Common Law Barrister, and after that six months more with some Equity Lawyer and Conveyancer.” It was typical of Badruddin that, while congratulating Husain on passing the Final Bar Examination as well as the Law Tripos with Honours, he reiterated: “You ought to attend the law courts and see the examination of witnesses. This training will give you a practical knowledge of the law combined with scientific and theoretical principles which you study in the University.” A few days later, Badruddin wrote (July 10, 1896): “Actually, drawing up one agreement teaches you more about such documents than reading fifty pages from the books. Similarly about cases in Barrister’s Chambers. I hope therefore that you will go through this course of regular practical training and will be fully acquainted with the art of drawing deeds, wills, conveyances and documents of every description, and also will be able to draw pleadings, such as declarations, pleas, interrogatories and the examination of witnesses and the practical mode of conducting a case before coming back to India. This practical knowledge will give you an immense advantage without which it will be impossible to get on with the Bar. Therefore I strongly advise you to do the whole work yourself from the beginning to the end, that is to say, all the work that comes before you either in Morris’<sup>9</sup> office or in the Barristers’ Chambers later on. You will, of course, continue to read the law in connection with the cases or matters actually in hand. You must be familiar with all the ordinary text-books of authority on every branch of the law and in particular you must learn to find

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9 Mr. John Morris, solicitor, who was a friend of *Badruddin*.

out without the least difficulty the decided cases upon any particular point that may have to be discussed. Become absolutely familiar with Law Reports and learn the habit of turning up the case whenever required. The Law Reports and books of authority are in reality the working tools of a practising Barrister, and the mere possession of these is of no use unless you are able to use them practically with facility. You must get rid of the notion which I think some people harbour somewhere in some dark corner of their mind that mere fluency of speech, of ‘gift of the gab’ and some clap-trap argument is all that is necessary for a successful Barrister. I know this notion, which is as stupid as it is mischievous and unfounded, is entertained by a large number of young Indian Barristers who seem to have apparently chosen the Bar for their profession on account of their supposed possession of the ‘gift of the gab.’ The disillusion begins as soon as they appear before a Court, when they find that what is required is not eloquence, but a hard and clear head, a complete mastery of the facts and law, a power of logical analysis and a calm and lucid exposition both of the law and of the facts. What is called eloquence is entirely out of place in the High Court. It may be of some use before the Jury, but no man presents a sorrier or more ludicrous or a more pitiful sight than a young Barrister who tries to convince a Judge not by clear, lucid arguments, but by eloquence.” Later, letters kept up the flow of advice. Badruddin wrote (August 14, 1896): “It is essential for a practical lawyer not only to know what the law is, but also to know where it is to be found. Close application, mastery of details, perseverance and industry are more necessary for success than brilliant intellect or eloquence.”

It was scarcely surprising that a person with such a clear concept of law and such intense devotion to that “jealous mistress” should have won her favours so handsomely. Badruddin moved from his former residence at Khetwadi to a large house at Byculla. In 1871, after some years, he shifted to his own bungalow, ‘Somerset House’, Cumballa Hill, Bombay. Badruddin’s services



were greatly in demand not only in the High Court, but also in the mofussil and, more lucratively, among the Indian Princes, many of whose retainers he held. There was no case of importance in which he did not appear (*The Times of India*, August 25, 1906). “An advocate of brilliant forensic abilities and a powerful and successful cross-examiner” was how *The Times of India*, (September 1, 1906) characterized him.

The best judges of a lawyer’s worth are neither his clients, lay or professional, nor the public, nor even the Judges. They are his professional colleagues. A distinguished lawyer and publicist who was closely associated with Badruddin’s legal and public work wrote in appreciation after his death (*The Times of India*, September 1, 1906):

“A fluent delivery, a bold front, a clear head and the capacity to grasp facts quickly and state them with lucidity enabled him to make his mark in the profession within a few years after the commencement of his professional career. Mr. White, who was then Advocate-General, was among those who early discerned Mr. Tyabji’s ability and predicted a great future for him, remarking, however, that the only defect of Mr. Tyabji’s advocacy was diffusiveness which it was thought was due to the ‘soporific atmosphere’ of the Insolvency Court where at the outset Mr. Tyabji enjoyed an extensive practice. Tenacity was one of Mr. Tyabji’s strongest points. When he had chalked out a line of argument, he would prove it with doggedness and not the strongest or most impatient Judge on the Bench could succeed in making him deviate in the slightest degree from his determined course of advocacy. I could cite several instances in illustration of that characteristic of Mr. Tyabji, but one should suffice.

“It is some years since he appeared as counsel for an accused person in a criminal appeal before a Division Bench consisting of Mr. Justice Parsons and Mr. Justice Ranade.



The case had excited some sensation at the time and it was during the hot days of May that the two judges sat to hear the appeal. Mr. Tyabji began his argument with some prefatory remarks giving a general view of the case, and that occupied about half an hour. He then commenced reading the evidence. He had not gone on for more than ten minutes when Justice Parsons, who always liked a short argument, said : ‘We have read the evidence, Mr. Tyabji.’ Mr. Tyabji met the remark with a cool ‘Yes,’ and went on reading the deposition all the same. Mr. Justice Parsons: ‘What is the use of reading the depositions and wasting the time of the Court when we have read them all? Better confine yourself to such comments as you may have to make on the evidence.’ Mr. Tyabji: ‘I dare say, my Lord, your Lordships have read the evidence but you have read it in your own way. I am here to make your Lordships read the evidence in my way and it is only then that you can follow my comments.’ And Mr. Tyabji had it his own way. For two days he kept the Court occupied hearing his arguments, with the result that at last he secured an acquittal for his client, and the remark went round the Bar that Mr. Tyabji had given a good lesson on patience to the Bench.”

Gandhiji, in his *Story of My Experiments With Truth* quotes Veer Chand Gandhi, who was at that time studying for the solicitor’s examination, as saying, “Badruddin Tyabji’s wonderful power of argument inspires the Judges with awe.”

A successful career at the Bar truly laid for one endowed with a keen social conscience the foundation of a great political career. For long Tyabji would tell Telang and Pherozeshah Mehta “that sort of thing .is not in my line,” whenever the latter tried to persuade him more actively to join them in any public movement, but without knowing it Badruddin did become an active participant in the country’s public life.

## Beginnings of Public Life

**A**S with many a great political career, Badruddin's had small beginnings. It was nothing more important than the state of the city of Bombay. It was at one time governed by a Board of three Commissioners and its condition was pitiable. The Act of 1865 had conferred executive power on a Commissioner responsible to a Bench of Justices of the Peace of the Town and Island of Bombay. The first Commissioner was Mr. Arthur Crawford, a man of vision and, like many such, autocratic and utterly indifferent to the financial consequences of his policies. Neither the Justices nor the Controller of Accounts could restrain him and before long the Municipal Government of the city was nearing bankruptcy. The public became restive and a Rate-Payers' Association was formed in November 1870 to ventilate their grievances. Meanwhile, one of the Justices of Peace, Mr. James Forbes, organized an opposition against the autocracy of Mr. Crawford. A meeting of the Justices was convened on June 30, 1871, in the Darbar Room of the Town Hall. Sir Homi Mody writes:<sup>10</sup>

“Perhaps no other problem in the civic and political life of Bombay had brought together on one platform such a galaxy of talent as was in evidence on that memorable day in June. There were gathered at the meeting men distinguished in every walk of life, keen to serve the interests

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<sup>10</sup> *Sir Pherozeshah Mehta*, by Sir H. P. Modi, Asia, Bombay.

of the city they loved. Jamestji Jijibhoy, Naoroji Furdoonji, Sorabji Bangalee, Vishwanath Mandlik, Badruddin Tyabji, Pherozeshah Mehta, Dosabhoy Framji, Mahadeo Govind Ranade, Narayan Wassudeo—such were among the representatives of the Indian community. The British element was represented by such notable men as Robert Knight, James Maclean, Martin Wood, James Forbes, Hamilton Maxwell, Captain Hancock, Captain Henry John Cannon and Thomas Blaney. These were the makers of new Bombay, the foundations of which had been laid during the epoch-making administration of Sir Battle Frere. They were gathered that evening to fight the battle of municipal reform, and to lay broad and deep the foundations of local self-government in the city.”

Ultimately, after prolonged debate, Mr. Maclean’s amendment to Mr. Forbes’ motion was carried that the Bench “as it is at present constituted” was unable to give to municipal finances the constant and effective supervision contemplated by the Act of 1865 and Government was requested to transfer all the financial powers vested in the Bench and the Municipal Commissioner to a Town Council of 16 members, six of whom shall be nominated by Government, six to be chosen by the Bench of Justices and four to be elected by the rate-payers.

Speaking later, in a meeting held to support Mr. Forbes’ proposition, Badruddin made his first speech on public affairs, during the course of which he remarked:

“The right to have good roads, and certainly some of those which we have are not very creditable and the Justices would be rather surprised, were they to go through some of the poor quarters of the city, to find that the roads there are in a most wretched condition. People who live at Walkeshwar, Mahalaxmi or Breach Candy can come into that part every morning without ever seeing what the poor people have to put up with. It is an injustice over



which the Bench has no control and I believe that if the Town Council proposed by Mr. Forbes were inaugurated, such injustices would quickly disappear. It would be composed of men who would attend to the wants of the whole city and who would look after the interests of the quarters of the poor as well as the quarters of the rich. If any other arguments were required for the purpose of recommending the proposal by Mr. Forbes, it is sufficient to say that he wishes to introduce the elective principle. It cannot be supposed that the proportion of the number of persons elected by the rate-payers should allow the affairs of the city and the Municipality to remain in a state of neglect and carried on indifferently.” (*The Times of India*, July 10, 1871.)

Badruddin’s faith in the efficiency of an elected municipal authority was as touching as it was exaggerated. But the times were different. The reforms that were ushered in by the Municipal Act of 1872 paved the way for the rise of one of the greatest municipal corporations in India.

The first elections under the new Act were held in 1873. *The Times of India* (January 23, 1883) wryly commented: “At the first election of 1873 we find that such well-known people as Sir Jamsetji Jijibhoy, Mr. Jamsetji Pallonji Kapadia, Dr. Thomas Blaney, Mr. Badruddin Tyabji and even Mr. Naoroji Furdoonji, the great tribune of the people himself, only secured one vote.” However, Badruddin stood as a candidate in the next elections held in 1875 and was elected then and in four successive elections.

While taking an active part in the city’s affairs, Badruddin was not unmindful of the state of the Muslim community which was socially and educationally backward and had hardly any political awareness. Badruddin’s efforts to promote Muslim education through the Anjuman-e-Islam of Bombay, a society formed in March 1876 for the betterment and uplift of the Mussalmans in every direction deserve a chapter in themselves.

No less sensitive was he to the humiliating and discriminatory treatment meted out to the Indians at the hands of the Europeans. He wrote in a letter to the Press: "The pride and arrogance of a European barber, closing his doors against the natives of the country, based on the assumption of his racial superiority, is contemptible and ridiculous. But if this pride and arrogance is shared by the high officers of the State, and made the keystone of their policy, then, indeed, it becomes a great and real danger... Is it fair, for instance, that the natives of this country, however high their position and rank may be, should be excluded from the use of travellers' bungalows, built at the public expense, and out of funds, all but an infinitesimal part of which must necessarily have been contributed by the native subjects of Her Majesty?" Such cases were common in those days, Badruddin himself being a sufferer on this account on one occasion.<sup>11</sup> We shall see later how he speedily brought to book insolent European members of the Bombay Bar who nursed the delusions of racial superiority.

Badruddin's next major public speech was a protest against the Viceroy, Lord Lytton's proposal to abolish import duties on cotton goods, ostensibly in the cause of Free Trade, but in reality to benefit the cotton manufacturers of Lancashire. The Viceroy, Lord Lytton, took this step in the face of the opposition of his entire Council, barring the Finance Secretary. Refused the use of the Town Hall, the sponsors of the protest organised a meeting in the Hall of the Framji Cawasji Institute on May 3, 1879. The principal speaker was Mr. Morarji Gokaldas, Mr. Pherozechah Mehta read a petition, probably drafted by himself, and Badruddin spoke on the motion to forward the petition to Prof. Fawcett, M.P., whose sympathies for India were well known, for submission to the House of Commons. The speech revealed, observed Mr. C. L. Parekh, that "Badruddin had the making in him of a first class platform speaker."<sup>12</sup> Mr. Parekh's comment was a most perceptive one. Mr. Justice Russel said on Badruddin's

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<sup>11</sup> *Badruddin Tyabji*, by Husain B. Tyabji, p. 46.

<sup>12</sup> *Eminent Indians on Indian Politics*, by C. L. Parekh, Bombay, 1892.



death: "He was one of the most gifted and perfect speakers of the English language I have ever heard." But there was more to the occasion than a personal triumph. An Association was being formed which was to enthral Bombay for many a year to come.

In August, 1882, Badruddin was nominated a Member of the Legislative Council of the Governor of Bombay. The first meeting was fixed for September 1, 1882. Badruddin sought to return a brief in a case due to be heard on that date to attend the meeting, but his instructing solicitors refused to oblige him. He then applied for an adjournment of the case stating the grounds but the other side opposed the application and the Court refused the adjournment. *The Times of India* of September 1, 1882, wrote:

"The Hon'ble Mr. Tyabji applied yesterday afternoon to have a case postponed in order to enable him to go to Poona by this morning train to attend his first meeting of the Legislative Council. This application was objected to by the Counsel on the other side and was refused by the Judge. It seems to us that this is a very important matter which concerns the whole public of Bombay. Mr. Tyabji's application was not based on any private or personal grounds, but on public grounds only, and the refusal had the effect of preventing him from going to Poona, and discharging his public duties, although he made every arrangement to do so. He was put to the cruel alternative of either sacrificing his client, or neglecting his public duties. He had, we believe, offered to and actually returned the brief to the Solicitors, M/s. Tobin and Roughton, but they refused to take it back on the ground that this would simply ruin their client's case. This is, we think, a matter which the public and the press ought to take up warmly, as it is highly desirable that the Members of the Legislative Council should have all reasonable facilities to enable them to discharge their duties properly."



Other journals like The Bombay Gazette wrote in support of the Court's order. A dear friend, Nakhoda Mohammed Ali Rogay, who had invited Badruddin to stay with him in Poona, wrote, "I do not blame the Judges for not giving you and Lang leave. You gentlemen of the robe enjoy too much indulgence and poor litigants have to suffer for your convenience." Badruddin was quick to realize that the ruling meant curtailment of his public activities and he promptly resigned his seat as Municipal Councillor.

All the while the educationist in Badruddin was very active. In 1882, he gave evidence on the state of Muslim education before the Hunter Commission, while the Anjuman-e-Islam continued to make heavy demands on his time. The year following was to see Badruddin attain a place in the front rank of Bombay's public figures.

## Muslim Education

**A** PART from his devotion to the legal profession, Badruddin's first love was education. Politics came much later. Badruddin made the Anjuman-e-Islam the vehicle of his ideas and the instrument of his endeavours in this field. The founders of this body were Badruddin's friend, Nakhoda Mohammad Ali Rogay, Badruddin's elder brother, Camruddin, Munshi Hidayatulla, Munshi Ghulam Mohammad and Badruddin himself. The first President to be elected (April 18, 1876) was Camruddin, while Rogay became the Vice-President. The Anjuman had also an elected Majlis-e-Munsarim (Executive Committee) with Badruddin among its seven members. (Another member was Abbas S. Tyabji who won renown in 1930 for his role in the Dandi march.) The President of the Anjuman wrote a letter to the Chief Secretary to the Government of Bombay (August 15, 1876) informing him that "a society has recently been formed in Bombay under the title of Anjuman-e-Islam with the object of assisting in the amelioration of the condition of the Mahomedan community at large. The first subject which has attracted the attention of this Society, and with which they have considered it 'necessary to concern themselves, is the want of education among the Muslims.'" The letter sought the Government's cooperation and help in the endeavour generally and particularly in regard to "increased facility to this section of Her Majesty's subjects for acquiring English education." The Chief Secretary to the Government assured the

President that “any suggestions, made by the Anjuman-e-Islam society, for the extension of education among the Mahomedans, will receive the best attention of the Director of Public Instruction, and of Government.”<sup>13</sup>

The Anjuman opened a separate “Anglo-Hindi Class” in the Gokaldas Tejpal School at Mumbadevi. It soon realised the need for a separate school of its own and a remarkable fund-raising campaign was launched, Badruddin himself addressing with his usual fervour a meeting of the leading Muslims of the city on March 28, 1880. The School commenced its classes on September 20, 1880 and Badruddin, who had become Secretary by then, expressed his confidence in the new venture in a most effective manner—by sending two of his sons to this School. The Government of Bombay gave an annual grant of Rs. 6,000. But this grant, as well as the funds collected, proved inadequate. Badruddin thereupon induced the Municipality to sanction Rs. 6,000 per year for the school.

While grappling with the problem of education, Badruddin was not unmindful of the hardships Muslims faced in regard to public employment. He took up the matter with Mr. L. C. Ashburner, the Senior member of the Governor’s Council, and with the Governor, Sir James Fergusson. A case that seemed very glaring to Badruddin was the failure to appoint a Muslim as a Sheriff of Bombay. He later brought this to the notice of the Hunter Commission as well. On Badruddin’s recommendation, Mr. Rahimtulla Sayani was appointed Sheriff and Sir James Fergusson took the opportunity to assure Badruddin that full justice would be done to the Muslim Community.<sup>14</sup> It deserves to be noted here that in the demand for a Muslim Sheriff, other communities warmly supported the Muslims. In fact, even with regard to the Anjuman, which was meant primarily for the

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<sup>13</sup> Letter from Mr. C. Gonne, Chief Secretary to Government, dated September 16, 1876.

<sup>14</sup> Letter from Sir James Fergusson, Governor of Bombay, dated December 24, 1884.



educational advancement of Muslims, Badruddin sought and was given the fullest co-operation from his non-Muslim friends. He invited Sir Pherozeshah and a few others to inspect and examine the Madrasa of the Anjuman and to report upon it. The report, which they submitted in 1882, had among its authors eminent men like Sir Pherozeshah M. Mehta, Mr. B. M. Wagle, Mr. S. P. Pundit, Mr. Nana Morarjee and Mr. Kaikhosroh N. Kabraji. After considering the programme of studies at the Madrasa, it concluded:

“We have great pleasure in sincerely congratulating the promoters of these schools on the remarkable success which had attended their efforts to promote education among all classes of Mahomedans in this city, efforts which must have been directed with great care, tact and practicability to have secured so prosperous a result in so short a time. We think we can safely predict that this institution, if it be continued to be conducted in the same admirable manner in which it seems to have been started and organised, will do for the Mahomedan community of Bombay what the schools of the Bombay Education Society did for the *Hindoo* and *Parsee* communities. We have returned from the inspection of these schools with strong impression that a distinct and important step has been taken to diffuse education in a community which had long, from various causes, stood aloof from it, and that it will lead them on without possibility of retreat to claim their fair share on the culture and enlightenment which British rule is spreading throughout the land.”

Strife inspired by personal ambitions was not slow to raise its head in the Anjuman.<sup>15</sup> It provoked from Badruddin a letter to *The Times of India*, which lucidly expounded his views on the role of the Anjuman. (*The Times of India*, May 10, 1882).

“Sir, it is not correct that the Anjuman-i-Islam is only a literary and scientific society. It is perfectly true that the

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15 For details, see *Badruddin Tyabji*, by Husain B. Tyabji pp. 92-101.

Anjuman has mainly interested itself in moral and social questions and in providing educational facilities for the Mahomedan population of this Presidency. The Anjuman has as a rule abstained from discussing political questions because the majority of such questions affect not merely the Mahomedans but the whole population of India in general, and therefore it is better that they should be discussed by the general political bodies composed of all classes of Her Majesty's subjects and not merely by a body of Mahomedans as the Anjuman is.

“When, however, any political ‘or municipal questions have arisen which affected the Mussalmans more especially than the other communities, the Anjuman has never hesitated to come forward, as witness the discussions and petitions on the Eastern question; the supply of water to the mosques and other charitable institutions; the encouragement of vaccination among the Mussalmans; the proper execution of the last census operations; exemption of Mussalmans from attendance in Court on Mahomedan holidays; the establishment of schools in different parts of the city, etc., etc. The Anjuman was the mouthpiece of the Mahomedan community, and did represent the intelligence, refined feelings and aspirations of the educated and thinking portion of the community, and I admit only that it did not represent the ignorance, bigotry, religious hatred, narrowmindedness and prejudices of the ignorant masses of the people.”

As one reads his later pronouncements on the Muslim problem, one cannot help being struck by the consistency of the author's views with regard to the respective roles of associations communal and associations national.

On October 27, 1882, giving evidence before the Education Commission, headed by Sir William W. Hunter, Badruddin said: “I do not think that the system of primary education amongst the Mahomedans has been placed on a sound footing. Indeed,



no system at all has been adopted with reference to the requirements of the Mahomedan population... The higher classes of Mahomedans are to a great extent excluded from Government schools by reason of no education being catered to their special requirements. They attach great importance to the knowledge of Hindustani, Persian and Arabic and therefore are unwilling as a rule to go to a school where instruction is given only in Gujarati, Marathi or English. I think that influential Mahomedans would support a system of education suited to the requirements of their community. They are at present perfectly indifferent, if not averse, to the cause of English education, because they consider it inconsistent with sufficient instruction in their own classical languages. The proper remedy therefore is to combine Oriental learning with instruction in western literature, arts, and sciences.” Badruddin suggested the introduction of Hindustani and Persian together with mental arithmetic which “as taught in the indigenous Gujarati schools would make classes more acceptable to the Mahomedan community than they are at present.” It speaks for his vision that as far back as 1882 he should have emphasised the importance of vocational education. “Some schools ought to be opened,” he said, “with the special view of assisting those who, for instance, wish to adopt a mercantile career. In the elementary classes more importance should be attached to the mental arithmetic as hitherto done. Book-keeping might be introduced with great advantage in some schools. Classes for agriculture and technical instruction ought to be opened.” “I think,” he proceeded, “that the fees ought to vary according to the means of parents or guardians of the pupils, and I am of opinion that great consideration ought to be shown to deserving pupils whose parents are unable to pay the usual fees and specially in the case of Muslims whose ignorance and poverty have now become almost a danger to the State and for which it has become imperatively necessary to provide a remedy.”

The Commission asked him: “Do educated natives in your Province readily find remunerative employment?”



Badruddin replied: "Educated Mahomedans have the greatest possible difficulty in finding remunerative employment either under government or otherwise."

He set out the reasons: Lack of English education and political prejudices and the decline in the importance of Persian and Arabic, with the result that, "several Mahomedan graduates of the University belonging to the most respectable families are unable to get any employment, although most strenuous efforts were made on their behalf by men of position and influence." With great candour, the witness analysed the causes for the general depression amongst the Muslims as follows:

- (1) A feeling of pride for the glories of their past empire and the consequent inability to reconcile themselves to the circumstances of the present.
- (2) Love and pride for the literature of India, Persia and Arabia to which they have been so long attached, and the consequent inability to appreciate the modern arts, sciences, and literature of Europe.
- (3) A vague feeling that European education is antagonistic to the traditions of Islam and leads to infidelity or atheism or to conversion to Christianity.
- (4) Failure or neglect on the part of the education authorities to provide suitable schools for Mahomedan youths.
- (5) Poverty which prevents them from availing themselves of even the existing schools.
- (6) A feeling that the Government of the country takes no notice of their reduced position and does nothing to extricate them from it.
- (7) A feeling that English education in Government schools is of little practical value and is useless for the ordinary process of life.

He proceeded to suggest remedies for removing each of these causes: "The Mahomedans must gradually be convinced

that the only way to vindicate and to be worthy of the past is to make the most of the present opportunities and that a sullen indifference will not in the least ameliorate their condition, but will, on the contrary, make their position worse every day.” With his keen sense of responsibility and usual realism, he added, “The removal of this cause, that is to say, the awakening of the conscience of the community and making them feel ashamed of their indolence and apathy is a task not so much for the government or the Education Commission as for the enlightened and influential Mahomedans themselves, who by holding public meetings, delivering lectures, writing in the press, establishing societies for the promotion of knowledge, etc. can alone convince their co-religionists of the fatal results of their present indifference.”

Badruddin was equally vehement in criticizing the Government’s indifference to the Muslims, an indifference which was the product of the Muslims’ role in the Great Indian Mutiny of 1857. “Why should Mahomedan literature be practically excluded from schools and colleges?” he asked. “Why should not the claims of Mahomedans to State patronage be recognised in the same manner as the claims of other communities?” The entire evidence shows the depth of Badrudain’s study of the educational problems of the Muslims. The Commission was much impressed by his evidence and the figures he cited in a memorandum submitted to the Commission on November 1, 1882 about Muslim backwardness. The memorandum is also notable for its stress on technical education (Appendix I).

Badruddin’s keen interest in education is also evident from his efforts to improve the Government Law College. The college administration was in a sorry state when Badruddin was appointed Professor in July 1886, having volunteered for the job. He was shocked to discover that the students expected him merely to mark them present and set them at liberty. Badruddin remained firm and insisted on teaching and adhering to the rules. He proved a successful teacher, but there was precious little that he could do about the institution itself. Some years later, in 1897, he led

a movement to establish a new law college. The managing board of this proposed college consisted of Badruddin as chairman and Mr. (afterwards, Sir) Narayan Chandavarkar, Mr. (afterwards, Sir) Chimanlal Setalvad, Mr. Rustom K. R. Cama and Mr. N. V. Gokhale as members. After enlisting the services of six Professors, the Board applied to the Government for the affiliation of the proposed "Bombay College of Law." Affiliation was refused. The Government enquired of Badruddin if he was, indeed, the Chairman or the Board and whether "the move to establish a new College had arisen from dissatisfaction with the facilities then afforded to law students or whether it was due to some other causes." If it was the former, Government enquired, whether it was not possible to devise measures to remove any just cause for complaint. In reply, Badruddin set out his grievances at length and owned up to being the head of the movement. The usual committee was appointed but for once it was refreshing to find that a committee's recommendations were promptly accepted and implemented. The Government Law School improved and the Government then wrote back to say that in view of the improvements, there was no point in establishing a new college. It was a deft performance.



## Rise to Pre-eminence

**A** PART from Badruddin's own rise, 1883 marked the ascendancy of the trinity that was Bombay's public life—Badruddin, Pherozeshah and Telang.

For Badruddin, the year began with his entry into the Legislative Council of the Governor of Bombay. The Council met on January 31, 1883, when Mr. Ravenscroft moved amendments to the Rules for the conduct of business of the Council in order that "greater publicity should be given to measures under consideration of the Legislature than has hitherto been the case, and that the public should also have every opportunity of considering these measures carefully and expressing an opinion upon them before they are passed into law and are entered on the Statute Book." To further this objective, he said, in future the Statement of Objects and Reasons will be "fuller than they have hitherto been," and will set out the reasons for the Bills and the data necessitating the measure in greater detail, and also to explain "the effect that the measure is likely to have on the Government policy and on the public generally." The next point related to the translation of all Bills and Reports of Select Committees into Indian languages and their widest circulation possible. The mover hoped that the amendments will afford to the public "an opportunity of fully considering all those laws, and of giving Government, and those in whose hands the making

of the law rests, the benefit of their advice and assistance on the measures proposed.”

The Hon’ble Mr. Badruddin Tyabji seized the opportunity to say:<sup>16</sup>

“The introduction of these rules marks such an important epoch in the history of this country that I think I should not be discharging my duty as a representative of the people if I did not take the earliest opportunity of publicly thanking His Excellency the Viceroy (Lord Ripon) for enunciating the generous policy with which his name will be forever associated. Your Excellency is at this moment no doubt deeply and anxiously engaged in devising a scheme for giving effect to that policy in this Presidency, and of which these rules form but the prelude. The scheme of local self-government which has been so happily inaugurated by our present Viceroy is but the outcome—the natural result, of the ‘circumstances, the necessities and the ‘exigencies of India ...

“Whatever difference of opinion there may be with regard to the ultimate success or failure of this momentous scheme which is about to be tried, I think there can be very little doubt that it will, at all events, tend to bring together in closer harmony the European and Native elements, and finally prove the death-knell to the suspicion and distrust which was the hideous offspring of the unhappy events of 1857 ... For what room will there be left for misapprehension or misunderstanding as to the policy or motives of the measures of the Government when those measures have been fully submitted to the criticism and judgment of the public, and that judgment not only tolerated but, as under these rules, actually invited, by the Government. It seems

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16 *Proceedings of the Legislative Council of the Governor of Bombay*, Vol. XII, 1883, p. 11

to me, therefore, that the policy which has given rise to these rules is not only the most benignant, but at the same time the wisest.

“With the scheme of local self-government in operation throughout the provinces of India, with a wide opening for the exercise of the talents and the disinterested and patriotic efforts of the enlightened natives of this country, what room will there be left for treason, or disaffection, or disloyalty? Such resolutions as have recently been passed by the Government of India are surely far more effectual in consolidating the British power, in tranquillising the people, in attaching them to the throne of Her Majesty, and in suppressing rebellion, than any number of the most stringent Acts for gagging the press or disarming the population. The scheme of local self government will, I believe—firmly believe—prove a blessing no less to the Government than to the people themselves. Much has been said with regard to the fitness or the unfitness. . .” (Abbreviated text)

At this point the Governor, Sir James Fergusson, who was presiding, interrupted: “I would most readily listen to my honourable friend’s identification of the present proposals with the general tenor of the liberal measures proposed by the Government but, strictly speaking, we should be going a little beyond the question at present before the Council were we to enter into a discussion of the scheme of local self-government in detail, because these proposals are simply to give full publicity to measures of the Legislative Council. I am happy to hear him identify the proposals with the general scheme, but I think he will see he is going a little too far in discussing in any detail a question that is not before us today in any shape.”

Badraddin adroitly replied: “I bow to Your Excellency’s ruling on the point. I was merely going to say that this was not a proper time to discuss that great and intricate question; but that,



at all events, these rules which are a prelude to the scheme of local self-government cannot possibly be objected to and that they have met with very warm response from the people of Bombay. I have no particular observation to offer in regard to these special rules, but I take them as a part of the scheme under contemplation, and they have my hearty support.”

Badruddin saw the potentialities that local self government afforded. Only the previous year, the Government of India Resolution of May 18, 1882<sup>17</sup> had laid down the outlines of the Government’s plan to encourage local self-government, “to induce the people themselves to undertake, as far as may be, the management of their own affairs.” The logical conclusion of what now appears to be a small beginning could not have escaped the Indian leaders of the day. Certainly Badruddin’s speech, at any rate, showed that he was very much alive to its possibilities.

### *Tribute to Lord Ripon*

Lord Ripon had won Indian hearts with his liberalism, a quality which earned him the unremitting hostility of the die-hard sections among the Englishmen in India. The Bombay Branch of the East India Association convened a meeting on February 17, 1883, to send a memorial to the Queen praying for the extension of the Viceroy’s term of office, with Mr. Dinshaw M. Petit, as he then was, in the chair. Moving the resolution, Badruddin Tyabji said: “I hardly know whether on this important occasion I should congratulate myself of having an opportunity for moving the resolution which I feel instinctively will be carried by you with acclaim or should regret that it should not have devolved on some abler and worthier hand. The resolution to which I refer is as follows:

‘That this meeting expresses its deep sense of gratitude and satisfaction at the various important measures which

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<sup>17</sup> Supplement to the *Gazette of India*, May 20 1882, PP. 747-53.

His Excellency the Most Noble the Marquis Ripon, the Viceroy and Governor-General of India, has inaugurated since the commencement of his viceroyalty. (Applause.) The history of Lord Ripon's administration in India is short, but it has already been memorable. It is not three years since His Excellency was appointed to the office of the Viceroy and we could not have forgotten the clamour that was then raised by a portion of Her Majesty's British subjects against that appointment—a clamour founded purely upon religious distinctions,<sup>18</sup> but we who are happily accustomed to see diversity of races, creeds and nationalities working together in harmony for the common weal, cannot but fail to wonder at the bigotry and narrow-mindedness which sought to deprive their country of the valuable services of one of the best, ablest and enlightened statesmen that England has ever produced. (Applause.) When Lord Ripon came to India, he brought with him not only a great mind, a powerful intellect, a great experience of political life, but what was more, a great and deep sympathy for the people of this country and their just and legitimate wants and aspirations.”

Badruddin referred appreciatively to the repeal of the Vernacular Press Act, the appointment of Mr. Justice Romeshchander Mitter as the Chief Justice of Bengal and “another most important measure which has not yet been completed but which, I trust, will soon be completed, the recent Bill which has been introduced in the Supreme Legislative Council in regard to the removal of restrictions upon the jurisdiction of Native Judges and Magistrates.” (Loud applause.)

Badruddin was touching a sore point, and few could have realised even then the campaign that was to sweep through the country in the days to come, a campaign in which Badruddin himself would play a leading part. He continued: “That is a

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18 Lord Ripon was a Roman Catholic.



measure on which I confess I feel some difficulty in speaking with patience,<sup>19</sup> because it seems to me that there is so little to justify an anomaly which now disfigures our otherwise fair Code of Criminal Procedure.”

Continuing his speech, Badruddin said: “It seems to me that if the mere fact that the race of the Magistrate or the Judge is different from that of the suitor before him is a disqualification, then it is a disqualification which cannot merely stop at the native Magistrates or Judges. It is a disqualification which by a parity of reasoning must apply to all Magistrates and Judges whatsoever, including Europeans.”

He added: “Amongst so many beneficent measures, any single one of which would suffice to render Lord Ripon’s administration illustrious, there is one which stands forth pre-eminently and which will render Lord Ripon’s name immortal in the annals of this country. It is the scheme of local self-government. (Applause.)”

Pherozechah Mehta seconded the resolution in a stirring speech and was followed by Telang. The meeting was a signal success. *The Times of India* (February 20, 1883) described it as a meeting of a “highly representative body of public men.” Meanwhile, the storm over the Ilbert Bill continued to rage. It was even suggested that the Indians were so antagonistic to Europeans that no European could hope to receive a fair trial from an Indian Judge. With biting sarcasm Badruddin posed

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19 Badruddin was referring to the fact that under the Code only a Magistrate who was himself a European British subject could try a European British subject. Presidency Magistrates were excepted. In 1872, when the Code was being amended, this discriminatory provision was sought to be removed, but was defeated in the Imperial Legislative Council by a 7 to 5 vote, with the Viceroy, the Commander-in-Chief and the Lt.-Governor of Bengal being in the minority. In 1882, when amendments to the Code were being considered, Mr. Biharilal Gupta of the Bengal Civil Service wrote to the authorities and pointed out that while as officiating Presidency Magistrate in Calcutta he had jurisdiction over European British subjects, on his promotion to a higher post in the District, he lost the jurisdiction. Although nothing was done in that



this question in a letter to *The Times of India* (March 6, 1883), “Whether it was not a gratuitous libel upon the Europeans themselves that all the educated Indians had turned against them.” The Grand Old Man of India, Dadabhai Naoroji, had written to Badruddin earlier, on February 8, 1883: “The Conservative papers have already commenced attacking Ripon and I have reason to believe that some attack will be made in Parliament also upon Lord Ripon’s policy as radical and mischievous. It is high time we showed our desire and approval of Lord Ripon’s policy in the most emphatic manner possible by praying to have more of him and strengthen the hands of those who have to defend him and I feel ‘very strongly that it is our duty to raise a loud voice. In my opinion it is high time to move.’”

### *The Ilbert Bill*

Dadabhai’s advice had been followed fully as the meeting of February 17 showed. But something more had to be done, and specifically, about the Ilbert Bill. The Viceroy was publicly insulted and Mr. Ilbert in particular was singled out for humiliation by the Europeans. It speaks for the estimate in which Badruddin was held that his opinion should have been privately sought on the Bill despite his public support to it. Replying to a letter from the Chief Secretary to the Government of Bombay, seeking his opinion, Badruddin wrote on April 19, 1883: “I have carefully watched all the proceedings in the Supreme Legislative Council with reference to the Bill .... I think in the first place that it is highly impolitic to introduce questions of race in the administration of justice. I also think that the present law draws invidious and galling distinction between the European and native members

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year, the Central Government invited the views of the local Governments, an overwhelming majority of whom supported removal of the anomaly. Mr. Courtney Ilbert, accordingly, introduced a Bill which conferred on District Magistrates and Sessions Judges the jurisdiction to try European British subjects and also empowered local Governments to confer similar jurisdiction on other specified officials in their own discretion. The Bill was greeted by the Anglo-Indians with a howl of protest.

of the covenanted civil service which ought not to be tolerated. I am also of the opinion that the trial of European British subjects exclusively by Judges of their own race is calculated to bring discredit on the administration of justice and to produce the impression that the anomaly is intended not so much for securing impartial justice as for screening European offenders.”<sup>20</sup>

Once again, the triumvirate came together to spearhead the agitation in support of the Ilbert Bill. A public meeting was convened by the Sheriff, Mr. R. N. Khote, and held in the Town Hall on April 28, 1883. Sir Jamsetji Jijibhoy presided. Badruddin, moving the principal resolution, said:

“I think I have been present at a great many public meetings on various important occasions, some of them held in this very Town Hall, but I do not remember to have ever witnessed a larger, a more influential, or a more representative gathering than I see before me this evening. (Cheers.) Gentlemen, the occasion which has brought us together is for the purpose of discussing calmly and dispassionately—and, I trust, without loss of dignity to ourselves or injustice to others—the proposed amendments to the Code of Criminal Procedure. Gentlemen, whatever may be the feelings excited elsewhere, whatever may be the causes which have given rise to those feelings, whoever may be responsible for them, I think, we the citizens of Bombay, have indeed good reason to congratulate ourselves upon the comparatively serene atmosphere in which we have the good fortune to live. Gentlemen, I am one of those who think that strong, passionate or abusive language is the surest sign of a bad cause and so convinced am I of the truth of this saying that I should indeed be sorry that a single word, expression or sentiment should drop this evening either from my own lips or from those of any other speaker

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<sup>20</sup> *Badruddin Tyabji*, by Husain B. Tyabji, p. 135.



that could be justly held to give cause for any offence to any section of Her Majesty's subjects and, especially, to that important European Community with whom it should be our constant aim to live in peace and harmony, and, if possible, on terms of friendship and to whom, in spite of recent occurrences, we must always look up with more or less awe, respect, esteem and even admiration. But, gentlemen, if I thus counsel moderation, it is certainly not because I do not feel indignant at the unparalleled insults that have been offered to our whole community at a great public meeting recently held in the Metropolis."

Clearly, Badruddin was at pains, in that tense atmosphere, to see that the meeting did not get out of control. He proceeded:

"Now gentlemen, what are the proposals of the Government of India that have given rise to all this heated discussion, to all this violent agitation? They are simply to invest a very small and select number out of the ablest, the most experienced, and the most distinguished of our native magistrates and judges with an infinitesimal jurisdiction over European British subjects." (Applause.)

Refuting the argument that Indian judges did not understand habits and customs of the European community, Badruddin remarked:

"If this is a sound argument, every European judge in India ought to be at once deprived of his jurisdiction over the natives of this country! For what can be clearer than that even the highest of our judicial officers, even the Judges of the High Court, know but little of the masses of the native community."

"Gentlemen, I venture to think that the present state of the law is not only unjust, but it is insulting to us. (Cheers .. ) It is insulting to us first because it brands even the ablest, the highest, and the most distinguished of our



judicial officers with a galling and a perpetual mark of inferiority. (Renewed cheers.) It is insulting to us because it draws an invidious distinction between the European and the native members of the same covenanted civil service. It is insulting to us because it exalts the European British subjects into such superior beings as to declare that even the highest of our judicial officers shall be incapable of imprisoning him for a single day or fining him a single rupee, and it is insulting to us because it degrades our own countrymen to such a depth as to declare, in the very next breath, that the same incompetent and unfit magistrates and judges, who are incapable of trying even the most trivial case of assault against an Englishman, are yet fit and competent to try millions of our countrymen for the gravest charges and even to condemn them to death!" (Prolonged cheers.)

Badruddin then went straight to the heart of the matter:

"Gentlemen, there is a large section of the Anglo-Indian community which cannot fully reconcile itself to that fundamental principle ... which declares that the natives of India are entitled to a just share in the administration of their own country, and that a mere difference in race, colour or creed shall be no just ground for distinction in political treatment. (Cheers.) Gentlemen, there is no principle better grounded in moral justice or political wisdom ...

"Gentlemen, I have great faith in the justice and firmness of the Government of India, but I have still greater faith in the noble instincts and the love of fair-play which characterises the British Parliament and the British public; but, gentlemen, if the introduction of this Bill was, in the first instance, wise and politic—as I think it undoubtedly was—the passing of it now has become a matter of absolute political necessity." (Applause.)

Seconding the Resoultion, Pherozechah referred to Badruddin's speech in these terms: "You would agree with me in admiring the speech as equally remarkable for its ability and eloquence, as for the studied and dignified moderation of its tone." Pherozechah's own speech was of no mean order. As *The Times of India* (April 30, 1883) commented: "At least two or three of the speakers displayed a knowledge of the English language in its more subtle aspects which is gratifying to those who believe that there is a great intellectual future before the leading Indian races." It added, "Indeed, three of the orators showed themselves to possess as great a mastery of our somewhat difficult idioms as Cicero ever did of the Greek—an accomplishment of which the famous orator rather prided himself." What was more remarkable was the unity with which Bombay's three leading figures acted. In his Introduction to *Speeches and Writings of the Hon'ble Sir Pherozechah Mehta*<sup>21</sup> Mr. Dinsha E. Wacha considered the meeting as marking a second stage in the career of Pherozechah "when the brilliant triumvirate, consisting of Mr. Badruddin Tyabji, Mr. Pherozechah Mehta and Mr. Kashinath Trimbak Telang, stood shoulder to shoulder on the platform in the Town Hall on the eventful 28th April, 1883 and demonstrated to the world how calmly, how soberly, yet how sagaciously cultured Indians, brought up in the best schools of instruction by high-minded and philosophic masters of thought, could comport themselves and give expression to the thoughts burning within them on a grave subject in the midst of intense heat and excitement, unprecedented in the annals of British India."

On December 7, the Viceroy announced a concession. The jurisdiction to try European British Subjects would be limited to District Magistrates and Sessions Judges. Even this concession, which the Indians rightly resented, failed to appease the European die-hards. Badruddin went to Calcutta to confer with the leaders

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21 *Speeches and Writings of the Hon'ble Sir Pherozechah Mehta*, edited by C. Y. Chintamani, Allahabad, Indian Press, 1905.



there. On New Year's day, 1884, he met the Viceroy. Unfortunate as the concession was, he realised that only a compromise could save the Viceroyalty of Lord Ripon, which Badruddin prized very much. He, therefore, advised his friends in Calcutta and Bombay to stop all further agitation. A compromise known as "Concordat" was arrived at whereby European British subjects on trial were allowed the right to trial by a jury, a majority of whom would consist of their own countrymen, whenever they were tried by the District Magistrates and Sessions Judges. The Bill embodying the compromise was passed on January 25, 1884. Although greatly attenuated, it did mark a clear triumph for the Indian agitation.

On August 25, 1883, Badruddin made a memorable speech on the Bombay Local Boards Bill and the Bombay District Municipal Act (Amendment) Bill. He dwelt at length on issues like the role of non-officials, need for supervision and control, disadvantages of nomination, qualifications of voters, whether officials should be presidents of local boards and powers of such bodies to make rules—issues that are very much alive today in the context of Panchayati Raj.

Recommending the scheme for local self-government, Badruddin said:

"No one, I think, will venture to deny that it will tend to stimulate public spirit and independence, that it will raise the people in political education, that it will foster a healthy spirit of manliness and self-reliance, of competition and rivalry in the discharge of civic duties—that it will bring the official and non-official classes, the European and native elements, into closer contact—that it will create an interest in the minds of the people in regard to the improvement of the localities with which they are more immediately concerned—and, above all, that it will make the burden of taxation feel lighter by conferring upon the tax-payers themselves the power of administering funds.



But if these are the advantages to be reaped by the people, how shall we estimate the enormous gain that will also accrue to the State? How shall we put a price upon the invaluable services of the thousands of able, upright, and experienced gentlemen whose services will be placed at the disposal of the State from no other motive than the honour of serving their country, and for no other recompense than the satisfaction of a desire which seems not only common but natural to all civilized mankind.”

He was quick to note the deficiencies in the draft of the Bill and made suggestions to improve it. He criticized the constitution of boards as envisaged in the Bill, in particular he felt that the proportion of nominated members (50%) was too high and said they should not be more than 1/3rd in the taluqa committees and not more than 1/4th in the local boards.

Objecting to the clause of the Bill under which the right of selecting as well as of being elected members of the local boards in Sind was confined to the hereditary *jagirdars*, *arababs*, *waderos*, *neckmards dehdars*, *pariomars*, *mukhis*<sup>22</sup> and other headmen, and elders of the communities who may from time to time be declared eligible by the Collector, Badruddin declared he saw no reason why Sind should not be treated on par with Bombay in this respect. He found the Bill further deficient as no professional or educational test for a voter was laid down in the Bill itself.

Commenting upon the clauses affecting presidents and vice-presidents, he declared:

“I entertain a very strong conviction that the success or failure of the system of self-government will very much depend on the manner in which this problem is solved. I would earnestly deprecate, as a general rule, the appointment of Collectors to be the presidents of the local boards. I am

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22 Meaning literally ‘good men’, ‘old men’, ‘great men’. ‘lords’, ‘masters’, etc.

satisfied that their presence, as a rule, will be sufficient to crush the independence of the members, and I feel convinced that their presence, or even their active influence, would be quite enough to cause either an unseemly and undignified wrangle at every meeting of the board, or complete submission to the behests of the local authorities. I submit, therefore, that as a general rule, at least the presidents of the local boards should be non-official gentlemen; and I go further and say that these presidents should, as a rule, be permitted to be elected by the local boards themselves, subject only to the approval of Government. Then, again, I think the boards ought equally to have the power of removing presidents, and I would suggest that the presidents should be liable to be removed on a resolution passed, say, by a majority of two-thirds, at a special meeting expressly convened for the purpose.”

In regard to the duties to be imposed on local-boards, Badruddin said:

“I think the establishment and maintenance of model farms, the acclimatization of exotics, the importance and distribution of various kinds of seeds, the improvement of the breed of horses and of cattle, the introduction and preservation of fish, the establishment and maintenance of relief works in times of famine or scarcity—these are matters which ought not to be made, as provided by clauses (e) and (g) of Section 30, compulsory upon local boards at all. They ought to be, I submit, left entirely to the option and discretion of the local boards. They are matters in their nature rather Imperial than local, and considering the slender funds at the disposal of the local boards, I think it would be extremely unfair to compel them to undertake duties which would be more properly performed out of Provincial or Imperial revenues.”

In regard to the subordination of local boards, in some respects at least to the Central Government, Badruddin stated:

“It seems to me that there ought to be general supervision, especially in matters where it is necessary that there should be a continuity of policy, as in education and other matters which might easily be enumerated. But I think any interference in petty matters ought to be carefully avoided; such, for instance, as requiring the sanction of the Commissioner to lease for more than three years. Surely that is a matter in which the local boards might well have been trusted.”

Badruddin's faith in local autonomy was unshakable. He continued:

“Then I would give to the local boards the power of appealing to the Governor-in-Council in every case of interference with their duties or functions. And, further, I think it cannot be too strongly impressed upon the local authorities that controls are necessary as a precautionary measure in the abstract, still they would not be put into operation, except in extremely emergent cases, and even then not without due regard to the wishes and feelings of the local boards themselves.

“I now come to a part of the Bill which is not only of extreme importance in regard to this particular scheme of local self-government, but which seems to me to involve a vital principle respecting the duties, functions and responsibilities of this Council, as well as the mode of legislation in this Presidency generally.

“I refer to those sections of the Bills which confer wide discretionary powers on the Government for making rules in regard to matters which have been expressly left open and undecided by the Bills. Now I do not deny that it is often desirable and sometimes even necessary to confer some such limited power on the Executive Government;



but such power ought always to be carefully defined, and limited either to minute matters of detail which are constantly fluctuating in their nature, or else to matters connected, not so much with legislation, as with carrying a legislative measure into execution. It is the duty of the Council, I submit, to try and make its own legislative measures as perfect and complete in themselves as possible and it ought not to abdicate its functions in favour of any other authority, especially when questions, not merely of detail but of principle, are involved. True, the Governor-in-Council is often in a far better position than individual members of this Council can be expected to be, to decide points which require careful and minute investigation of local circumstances; but nevertheless I think the advantages of a free, open and public discussion in this Council are so great that all important matters, whether of principle or of detail, ought to be discussed and decided here as far as possible.

“These general observations seem to me to apply with special force to the measures under discussion. Such wide, absolute and almost unlimited powers of making rules are given in these Bills that it would be possible, by means of rules which Government are empowered to frame, to render the Bills perfectly nugatory. Take, for instance, Section 8 of the Local Boards Bill. That section gives to the Governor-in-Council absolute power to exclude from the benefits of local self-government such portions of the Presidency as he may deem necessary. Now, of course, I do not deny that these may be, and probably are, certain local areas unfit for self-government; nor do I for a moment suggest that His Excellency is at all likely to exclude advanced districts, such as Poona, Ahmedabad or Surat. Yet there is nothing in the Bill itself to prevent his doing so. With the profoundest respect, therefore, for His Excellency-in-Council, and the utmost confidence in His Excellency’s enlightened

administration and undoubted sympathy for the people, with firm conviction that His Excellency is determined to give fair-play to the scheme of local self-government in this Presidency, I must yet strongly oppose the insertion of such a clause as that, because I think it is radically wrong in principle. His Excellency's views on the subject we know and can trust, but there is no guarantee as to who his successor may be, or what views he might entertain. And the point is of far too vital an interest to the people to be thus left in doubt or suspense. It seems to me to be the clear duty of this Council, however arduous and unpleasant, to try to make its measures as complete as possible in this respect, and not to shrink from the responsibility of deciding what are backward districts which ought to be excluded from the benefits of local self-government. I think there ought to be a schedule annexed to the Bill giving names of backward districts and at the same time power should be given to the governor-in-council to extend the scheme to even those backward districts as may from time to time prove themselves worthy of enjoying privileges of local self-government."

The mover of the Bill, J. B. Peile, observed that there was that power.

Badruddin observed:

"This, I think, would have the advantage of calling the attention of the public to the matter, and would give an opportunity to the condemned districts themselves to make such representations to the Government as they might think necessary. The same observations, I think, apply with equal force to clause 3 of Section 18, which confers upon the Government the power to declare who are the persons to whom the franchise ought to be extended. This does not seem to me to be a matter of detail at all, but one of principle; and, as I have already said, I think the educational and professional tests, as well as any other property tests that



might be considered desirable or necessary ought to be distinctly laid down in the Bill.

“Then, I strongly object to clause (a) of Section 66, which gives to the Governor-in-Council absolute power to prescribe the number of members for district and taluka boards, and the proportion of elective members and of government nominees for each. I think that these are probably the most essential and vital parts of the whole scheme. The success or failure of the scheme must entirely depend on the manner in which the local boards are constituted and presided over; and I submit that these are the very points, above all others, which ought to be discussed by this Council and ought to be decided here. If they are left to the decision of the Governor-in-Council, they will be decided without hearing what the public have to say, and without the benefit of any public discussion at all.

“I have now touched on what are the most important features of the Bills. There are, no doubt, many other minor points of more or less importance which will be required to be discussed by the Select Committee. I will say nothing more upon them at present, but will merely conclude by expressing a hope that these Bills, which, to my mind, possess all the essential elements of really great, wise and generous measures, may be so enlarged and improved by wise and timely concessions on the part of Your Excellency’s Government as to make a lasting monument to your wisdom, and a permanent blessing to the people of this Presidency.”

The Bill was sent to a Select Committee whose members were Badruddin Tyabji, Rao Saheb V. N. Mandlik, Rao Bahadur K. V. Rasti, Major General Merriman and the mover, J. B. Peile. Since Mandlik could not attend, the burden of advocating the Indian standpoint fell largely on Badruddin.



The Council was reconvened on January 9, 1884, to consider the Report of the Select Committee. With the graciousness which characterised the times, the Governor complimented the Select Committee for its unremitting labour in the study of the Bill and Badruddin Tyabji particularly. The mover, Pelle, himself said: “We have had the advantage of the aid of the Hon’ble Mr. Badruddin Tyabji who devoted much time and pains to the study of various difficult points and whose impartial and candid opinions are entitled to much respect.”

Winding up the final debate, the Governor too paid Badruddin a handsome tribute in these words: “I have listened with the greatest pleasure to the speech of the Hon’ble Mr. Badruddin Tyabji—a speech which I wish had been addressed to a much larger audience. Its breadth of view, complete candour, independence of thought and, at the same time, public spirit, is, I think, highly creditable to this Council.”<sup>23</sup>

Badruddin resigned his seat in the Legislative Council in 1886 on the eve, of his visit to Europe to recoup his health. The then Governor, Lord Reay, wrote to him (October 29, 1886), “I am very sorry to lose you in the Council. Though not in the Council, I shall always be glad to avail myself of your counsel. You cannot lose the representative character their confidence has given you.”

### *Indian Candidates for I.C.S.*

Another grievance, which made the educated compatriots of Badruddin sore, was the age limit of 19 years for Indian candidates to the Indian Civil Service examination in London. From the original limit of 22, it was reduced to 21, and later to 19, with the result that out of the 28 Indian candidates who sat for the examinations in the eight years of the Regulations, only one was successful. Lord Ripon very creditably sought to redress

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<sup>23</sup> *Proceedings of the Legislative Council of Governor of Bombay*, Vol. XXIII, 1884, p. 40.

this grievance as well. He invited Badruddin's views, who expressed them at length in a memorandum in which he requested the Viceroy to press the Secretary of State to raise the limit to not less than 21 years. Ripon agreed with that suggestion and so advised the Secretary of State. But the latter chose not to do so. Thereupon, on Badruddin's initiative, the Anjuman-e-Islam submitted a memorial to the Government, "in common with the other Indian subjects of Her Majesty," and a public meeting of the native inhabitants of Bombay was held at the Framji Cowasji Institute on 30th August, 1884 (*The Times of India*, September 1, 1884) under the chairmanship of Sir Jamshetji Jijibhoy. Delivering the main speech, Badruddin said: "Is it not a mockery for the Government in one breath to declare that all appointments are open to the natives of India, and in the very next breath to formulate rules which render it impossible for 99 out of 100 eligible candidates even to attempt to compete with their English rivals?"

"I should like to ask our European friends who may feel disposed to support this arrangement," said Badruddin, "how many out of 200 or 300 European candidates who now annually flock to these examinations would care to come over to India if the examination was held in Calcutta instead of London? .. I am no advocate of the examinations being exclusively held in India, though that would be the more natural order of things seeing that the object of the examination is to select candidates for the Civil Service of this country and not for the Civil Service of London."

Badrudin elaborated on the benefits of education in England, and the effect of the free political atmosphere of that country. But it is characteristic of him that he should have added: "We have our own languages, literature, history and religion to study, and unless we are altogether devoid of ordinary feelings of humanity, we cannot but desire that our children should possess some knowledge at least of these subjects. We can hardly tolerate



that our children should grow up in entire ignorance of our mother-tongue or of our classics, classics of which we have every reason to be proud.” In the same vein, he said: “Speaking as a member of the Mahomedan community, and possessing some knowledge of their feelings and ideas on the subject, I must confess that I cannot help sympathizing with them in their contempt for a Mahomedan youth calling himself an educated gentleman who does not possess a decent knowledge of his religion and of the Urdu and Persian literature.” Such was the understanding that existed between him and his compeers that his audience lustily cheered these remarks.

Badruddin pointed out that it was not possible for an Indian to send his son to an English school before he was at least 13 or 14. There the boy would have to spend at least 5 or 6 years receiving education before he could compete with his English rivals. In his opinion the proper age for an Indian lad to proceed to England was 16 years, after he had passed the Matriculation examination and secured some knowledge of his country and countrymen. “What we want is Indian civilians in the true sense of the word (cheers), that is to say, civilians not merely born of Indian parents, but men possessing a competent knowledge of their country and inspired by feelings of active sympathy for their countrymen. We do not want any striplings who left their native land at the early age of 10 or 12, who are absolutely ignorant of the manners, customs, languages, literature, history and religion of their countrymen and who have acquired nothing in England but an unfounded contempt for everything Indian and a blind and undiscerning admiration for everything belonging to the West, and yet, gentlemen, this must be the inevitable result if we were forced to send away our children to England at a very early age as we must do if the present rules remain in force, and if we wish to give them a chance of success.”

As mentioned earlier, these efforts came to naught but Badruddin had some consolation when his son Mohsin not only



passed the I.C.S. examination in 1885, when barely nineteen, but also topped the list. Mohsin Tyabji was the first Muslim I.C.S. officer of India.

The Viceroy, Lord Ripon, whose liberalism and insight had won Indian hearts, was now to retire. At a mammoth public meeting in the Town Hall on November 29, 1884, Badruddin, as was always his lot, moved the principal resolution. The speech recounted Ripon's many services to India. But it did more than that; it also expressed Badruddin's vision of the India that was to come: "Our vast Indian community," as he characterised it, was "composed of a thousand and one races." Unity in diversity was a later summing up. Badruddin was ever realistic to appreciate the diversity and to provide for it, while he devoutly cherished the vision and ideal of Indian unity. "Let us hope that it (the example of Lord Ripon) will encourage future statesmen to follow in his footsteps, and that the consistent pursuit of his policy will ultimately lead to the fusion of India into one great and united Empire ... "

## The Bombay Presidency Association

**T**HE great causes, as we have seen, were promoted at mammoth public meetings held generally in the hall of the Framji Cowasji Institute with Badruddin ever moving the principal resolutions supported ably by Pherozeshah and Telang. Bombay's public life truly revolved round them, but they could not have helped feeling the need for an organisation which would impart direction, order and drive to their advocacy of the national cause.

There existed the Bombay Association, established by Naoroji Furdoonji, in 1852, but it had become moribund. The East India Association was an European association. Dadabhai Naoroji set up the Bombay Branch of the East India Association as an autonomous body in 1869. But it was hampered by its links with the parent body and, successful as it was for a time, it did not go far enough. As Sir Pherozeshah Mehta testified,<sup>24</sup> "When in 1884 Mr. Telang and myself made up our minds that the Presidency required a political association of an active character, it was to Mr. Badruddin we applied as the representative of the third community to which he belonged to join us in establishing and organising it. Mr. Badruddin had no hesitation, though at that time he had begun to lay the foundation of a large practice, in placing himself into our hands and joining the Association."

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<sup>24</sup> *Some Unpublished and latest Speeches and Writings of Sir Pherozeshah Mehta*, edited by J. R. V. Jeejeebhay, Bombay, 1918, p. 185.

A meeting was convened by the three friends on January 31, 1885 at the Framji Cowasji Institute hall. Sir Jamestji Jijibhoy, Baronet, presided. Moving the resolution, Badruddin Tyabji said (*The Times of India* February 2, 1885): “Gentlemen, I rise to propose that this meeting resolve that a political association be established for the promotion and advocacy of the public interests of the country.

“It is, I think, with nations, as with individuals, that with the growth of the political life new aspirations arise and those aspirations require an organization to give them due expression and the organization, in turn, watches, regulates and develops and directs national aspirations.”

Badrudin went on to dwell on the need for a “well-organised, strong and proved national association for the purpose of watching the interests of the country.” The speaker pointed out that while the Bombay Branch of the East India Association had done good service to the people of the country, it was established rather in aid of the parent Association than as an independent association in this country. It served temporarily to fill the gap created by the demise of the Bombay Association. But there was now need for “a political association that may be called a truly national association” established on “a permanent basis”. He hoped further that the Association would be a “strong bulwark of our national rights and liberty, while at the same time serving as a guide, and a friendly guide, to the rulers of the country.”

Naoroji Furdoonji seconded the resolution. Telang and Pherozeshah also spoke. The resolution was passed with acclamation and the Bombay Presidency Association thus came into being with Sir Jamsetji Jijibhoy as President. Badruddin was appointed Chairman of the Council, while Pherozeshah, Telang and Dinshaw Edulji Wacha were appointed Secretaries.

In his biography of Pherozeshah, Sir H. P. Mody writes: “Tyabji, Telang and Pherozeshah were at the head of all public movements.” Doubtless, they were the very heart of the Association



as may be expected; but that occasioned a sneering reference by Lord Harris, the Governor of Bombay, after his retirement, a decade later, when he spoke of “the triumvirate known as the Bombay Presidency Association.”

The Association’s first important meeting was held on September 29, 1885, to consider the Secretary’s report. which proposed that efforts be made to make the British electorate aware of the Indian standpoint before it went to the polls.

Badruddin deplored that as late as the latter end of the nineteenth century they should be “entirely without any representation” in the British Parliament. The next three months would probably witness a very fierce political contest. “We are utterly unable, in any way, directly to influence the course or the result of that contest, and yet no thoughtful person could deny that we would be vitally affected by that result. We are absolutely without any representation whatever in the British Parliament and yet our destinies would very materially depend upon the choice that the British electors might make of their own representatives.” He, however, took consolation in the fact that “though we have no direct representation in Parliament, we are not altogether wanting in means by which we might, at all events, lay our views and aspirations before the people of Great Britain.”

A debate ensued in which Pherozeshah Mehta urged that Indian affairs be made a matter of party politics in England, while Badruddin was of the opinion that: “The liberals had enough burden to bear for the Home Rule of Ireland. To saddle them with the questions of India would impede them, make them lose the election and thus damage the very party most likely to help India; our action would be followed by its reaction.” Badruddin suggested, instead, that an appeal should be made to the British electorate generally, particularly since it was an established convention that Indian affairs were above party strife. Dadabhai Naoroji disagreed with Pherozeshah Mehta, whose view, as Sir

Homi has recorded, “did not find general favour at the time.” But so strong were the feelings on this issue that Sir Jamsetji Jijibhoy resigned both his membership and his office as President, saying: “I cannot be a member of an association which apparently aims at using India and Indian interests for political purposes of one or the other political party in England.”

Meanwhile, there came on the political scene a personality of remarkable force of character and idealism, Allan Octavian Hume, who had retired from public service in 1882. Hume took steps to form a national organization in the country to be called “Indian National Union.”<sup>25</sup> It had been proposed to hold a conference at Poona to enable “all those most interested in this Union to exchange opinions and authoritatively adopt an organisation that, in the main, shall approve itself to all.” Local Select Committees were formed at Karachi, Ahmedabad, Surat, Bombay, Poona, Madras, Calcutta, Banaras, Allahabad, Lucknow, Agra and Lahore, to appoint delegates to attend the conference. The Bombay Presidency Association passed a resolution on December 19, 1885, lauding Hume’s efforts and offering to make arrangements for the first session of the Indian National Union to meet in Bombay. The conference met in Bombay, instead of Poona, as previously contemplated, at the Gokuldas Tejpal Sanskrit College and Boarding House, Gowalia Tank, on December 27, 1885. Mr. W. C. Bonnerjee was elected the first President of the Indian National Congress as it became. Badruddin, Camruddin, Rahimtulla Sayani and Abdulla Meherali Dharamsi were among the delegates to the Congress elected by the Bombay Presidency Association. Unfortunately, both Badruddin and Camruddin were obliged to visit Cambay for professional reasons on a pressing call by the Nawab who was a family friend. The Diwan had been assaulted and there was every possibility of the Nawab’s Government being superseded by direct British administration.<sup>26</sup>

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<sup>25</sup> *Allan Octavian Hume*, by Sir William Wedderburn, T. Fisher Unwin, London, 1913, p. 50.

<sup>26</sup> *Baaruddin Tyabji*, by Husain B. Tyabji, p. 176.

This was very unfortunate for the simple reason that it gave an excuse to some ill-wishers of the Congress to suggest that the Congress did not enjoy Muslim support. This, of course, was far from true. At the first annual general meeting of the Presidency Association, on April 7, 1886, Badruddin refuted the suggestion in these words: "The Mahomedans have their Anjuman-e-Islam to represent to Government the wants of the community, and to urge them to adopt measures for its general improvement, but I deny that they are not one with their countrymen of other persuasions in the movement for the political improvement of their country."

At this meeting, Sir Dinshaw Maneckji Petit was elected President of the Presidency Association and Badruddin, the Vice-President. The rules barred the President from re-election.



## In the National Movement

**S**OON after the first session of the Indian National Congress, its President, W. C. Bonnerjee, wrote to Badruddin on December 1, 1886, inviting him to attend the next Congress at Calcutta.<sup>27</sup> “Your absence last year was a great disappointment to us all,” wrote Bonnerjee. “It is of the utmost importance that you should attend, and not only attend but if all the delegates agree—and those from Bengal and Bombay have already agreed—preside over our deliberations. I would not have written as strongly as I have done if our Bengali Mahomedan friends had been better disposed towards the Congress—not that their good disposition would have compensated us for your absence, but we would have been able to bear it without any serious loss.”

Badruddin’s health did not permit him to accept the high honour that was offered to him. He left for England to recoup it and could not attend the second session of the Congress at Calcutta in December 1886 when Dadabhai Naoroji presided.

The following year, like Mr. Bonnerjee before him, Dadabhai communicated to Badruddin on October 20, 1887, “the general desire” that Badruddin should preside at the next session of the Congress to be held at Madras. The Congress leaders felt, wrote Dadabhai, that if Badruddin “could be induced to assume office of the Chairman, they would be able to gain a step in advance

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<sup>27</sup> *Badruddin Tyabji*, by Husain B. Tyabji, p. 178.

over the last Congress and hoped he would render the country that service.”

At about the same time, parallel efforts were being made to form an exclusive Muslim Association. Badruddin received a letter dated November 28, 1887 from Syed Ameer Ali, Secretary to the Central National Mahomedan Association of Calcutta, who wrote:

“The growing solidarity which is visible on all sides among the Indian Mussalmans and the insight of working in co-operation to achieve their material progress and political advancement, render it absolutely necessary to hold in the Metropolis (Calcutta was then the capital of India) a conference of Mahomedan gentlemen of light and learning to discuss questions of importance vitally affecting the general interests of the Mahomedan community. It is patent that as long as we have no unanimity of views and unity of action in the furtherance of our legitimate and constitutional interests under the British Government, so long we shall form a community of only secondary importance in the eyes of the rulers and will not attain any substantial success in the work of political advancement. Pressed by these considerations I propose to convene a conference of Mussalman delegates on the 2nd, 3rd and 4th day of February, 1888. The conference will last from 2 p.m. to 5 p.m. on these three days and I beg to invite you on behalf of the Central National Mahomedan Association to join this conference. A conference of the kind I suggest will be unique in character and will confer lasting benefits on the Mahomedans of India by drawing together the bonds of brotherhood and sympathy and will give a double impetus to their political development which I am happy to perceive is reviving among my co-religionists. The question for discussion and the programme of business will be settled later.”

Having regard to Badruddin's remark at the first annual general meeting of the Presidency Association, his response to this invitation could not have been in doubt. On December 2, there followed an invitation from the Chairman of the Reception Committee of the Congress, a visit by Sir Dinshaw Wacha at his chambers, with a note, "Of course Messrs. Mehta, Telang and I have all along been of opinion that you are the best person to preside at the coming session for the reasons mentioned in the previous letter to you."

On December 3, 1887, Hume, in the capacity of General Secretary of the Indian National Congress, conveyed the unanimous desire of the Congress Standing Committee in these words:

"Our friends here asked me to write and add my testimony to theirs to the effect that the whole of the Congress Standing Committee, of which I am the General Secretary (though we do not put this forward to the public), are unanimous in their desire that you should preside at the coming Congress." He cited also the views of the various Regional Committees and said, "I personally—though that counts for little—believe that you are not only our best, but the only possible man for the post, and I do sincerely hope that you will see your way to accept this post, to which you are thus called by the absolutely unanimous voice of your educated fellow countrymen."

Before he could have received Hume's letter, Badruddin had, on December 3, 1887, sent his reply to Ameer Ali as follows:

"I have the honour to acknowledge the receipt of your favour of the 28th ultimo inviting me to attend the conference of the Mussalman delegates to be held in Calcutta in February next. In reply I beg to state that I should be most happy to do anything in my power to promote the moral, social and political advancement of the Mussalman community.

"I cannot, however, clearly understand from your letter the exact position you desire the proposed Mahomedan



conference to take up in regard to the other communities of India, nor can I clearly make out whether it is intended, to confine the deliberations of the conference to political questions alone or to extend the discussion to questions affecting the social fabric of our community. You are, no doubt, aware that I have always been of opinion that in regard to political questions at large, the Mussalmans should make a common cause with the fellow countrymen of other creeds and persuasions and I cannot help deprecating any disunity on such questions between ourselves and the Hindus or Parsis. On this ground I have highly regretted the abstention of the Mussalmans of Calcutta from the National Congress held both in Bombay and in Calcutta. If, therefore, the proposed Mahomedan conference is started simply as 'a rival to the general National Congress, I should entirely be opposed to it, as it seems to me that our proper course is to join the Congress in Madras and take part in its deliberations from our own peculiar standpoint. If, on the other hand, it is not started in any spirit of rivalry, I fail to understand why we should have a separate conference at all, because in that case our discussion would not be on political questions so much as on moral and social questions.'

In this letter one sees the innate courtesy of the man, his moderation, mature judgment, and, above all, his almost uncanny insight.

The third session of the Indian National Congress was held at Madras on December 26, 1887. Badruddin's Presidential Address (for text, see Appendix II) has been regarded as in a class by itself. At the outset, Badruddin declared, "It is impossible not to feel proud of the great distinction you have thus conferred upon me, the greatest distinction which it is in your power to confer upon anyone of your countrymen."

He traced the progress the Congress had made in the short time of its existence and then proceeded to deal with the greatest

challenge to the Congress, the charge that the Mussalmans had kept aloof from the proceedings of the last two Congress sessions:

“Now, gentlemen, in the first place, this is only partially true and applies only to one particular part of India, and is moreover due to certain special local and temporary causes (applause), and in the second place, no such reproach can, I think, with any show of justice, be urged against this present Congress (applause) and, gentlemen, I must honestly confess to you that one great motive, which has induced me in the present state of my health to undertake the grave responsibilities of presiding over your deliberations, has been an earnest desire on my part to prove, as far as in my power lies, that I, at least, not merely in my individual capacity but as representing the Anjuman-e-Islam of Bombay (loud applause), do not consider that there is anything whatever in the position or the relations of the different communities of India—be they Hindus, Mussalmans, Parsis, or Christians—which should induce the leaders of any one community to stand aloof from the others in their efforts to obtain those great general reforms, those great general rights, which are for the common benefit of us all (applause) and which, I feel assured, have only to be earnestly and unanimously pressed upon Government to be granted to us.”

Badruddin enunciated the role of the Muslims in India in these words:

“Gentlemen, it is undoubtedly true that each one of our great Indian communities has its own peculiar social, moral, educational and even political difficulties to surmount, but so far as general political questions affecting the whole of India—such as those which alone are discussed by this Congress—are concerned, I, for one, am utterly at a loss to understand why Mussulmans should not work shoulder to shoulder (applause) with their fellow countrymen, of other



... races and creeds for the common benefit of all. (Applause.)  
Gentlemen, this is the principle on which we, in the Bombay Presidency, have always acted, and from the number, the character, the position, and the attainments of Mussulman delegates from the Bengal Presidency and from the Presidency of Madras, as well as from the North-West Provinces and the Punjab, I have not the smallest doubt that this is also the view held, with but few though perhaps important exceptions, by the leaders of the Mussulman communities throughout the whole of India.” (Applause.)

It was in the course of this address that Badruddin formulated a principle which was to be embodied later as a rule of the organization:

“The only wise and, indeed, the only possible course we can adopt is to confine our discussions to such questions as affect the whole of India at large, and to abstain from the discussion of questions that affect a particular part or a particular community only.” (Loud applause.)

Towards the Government his approach was summed up in these words:

“Be moderate in your demands, be just in your criticism, be accurate in your facts, be logical in your conclusions, and you may rest assured that any propositions you may make to our rulers will be received with that benign consideration which is characteristic of a strong and enlightened Government.” (Applause.)

This Address has been warmly praised by Sir Pheroza Shah Mehta for its eloquence and wisdom:

“The remarkable fluency with which Badruddin had pleaded the cause of the country and the persuasive logic which found its way into the hearts and minds of his hearers, the words of wisdom which he then spoke might be read with benefit and advantage by every Hindu, Mussalman



and Parsi up to the present day. I think people cannot do better than peruse the wise and sagacious advice Mr. Badruddin gave on that occasion.” (*The Times of India*, November 10, 1906).

Among the papers, *The Times of India* wrote:

“Few presidential addresses have equalled the one which Mr. Badruddin Tyabji delivered on that occasion in the lucid arrangement of facts and cogent reasoning, and it was acknowledged on all hands to be a rhetorical effort of high order in the history of that movement.”

*The Hindu*, Madras, remarked:

“The address which was delivered by Mr. Badruddin Tyabji was a masterly performance for force and effectiveness as has never been surpassed by any other presidential speech.”

One of the most important subjects that came up before that session was a resolution for the repeal of the Arms Act by Surendranath Bannerjee with Hume and Chandavarkar counselling restraint. Badruddin adjourned the proceedings to evolve a unanimous resolution after consulting the mover of the resolution and other leading delegates. The House willingly gave its consent to the adjournment and a consensus was evolved, the agreed resolution being carried unanimously.

Badrudin’s tactful and firm handling of the session won high praise. At one stage, he remarked: “I am afraid I may appear to some of my friends a tyrannical despot, but I assure you that I acted on the principle that no resolution should be carried in this Congress unless it was a resolution that would commend itself to the judgment of all reasonable and thinking men.”

At the end, Mr. Salem Ramaswamy Mudaliar proposed a vote of thanks and said: “The way in which the whole session has been brought to a satisfactory conclusion is quite a crown of glory to our President, for the success we have achieved has been mainly due to the ability, tact and good judgment—and

above all good temper—which our President has shown in discharging his duties.”

That fine chronicler of Madras, Mr. G. A. Natesan, has thus recorded his impressions of that session.<sup>28</sup>

“Three speeches stand out in the memory as giving that session of the I.N.C. (Indian National Congress) its peculiar glory. Rajah Sir T. Madhava Rao’s address of welcome was couched in diction which suggested the cunning of the Taj Mahal chisellers, and which an Anglo-Indian journal, broad-minded and generous in those happy days, declared was ‘such as few persons in the continent of Europe ever speak.’ For pure dash and brilliancy nothing in the whole range of Congress oratory can equal the short speech by which Mr. Surendranath Bannerjee carried the Arms Act Resolution in the teeth of the opposition of such leaders as Messrs. Hume and Chandavarkar. Inferior to neither in weight or impressiveness, but superior to both in dignity and grace of delivery, was Mr. Tyabji’s Presidential Address. The present writer still cherishes as one of his most precious intellectual possessions the memory of the scene where, as a mere stripling, he stood behind a vast crowd, drinking in with rapture every word as it reached him, clear and apt—so apt, he thought—and catching now and then a glimpse of the handsome countenance which beamed with earnestness, good humour, and perfect self-possession.”

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<sup>28</sup> *Badruddin Tyabji*, by G. A. Natesan, G. A. Natesan and Co., Madras, p. 6.

## The Great Debate

ONE can see today how right Badruddin was in his insistence on the evolution of a national consensus. He saw that India was a nation in the making. On the one hand, nationalism was in its incipient stage and could have been destroyed either by an excessive insistence on sectarian rights and interests, or a total neglect of the legitimate rights and interests of the various communities that made the nation. As with all moderates, Badruddin came in for criticism and misrepresentation from extremists of both the views. How strong the feelings must have been then, one can well imagine from the bitter comments of one school or the cold scorn of the other.

Badruddin lost no time after the third session of the Indian National Congress in seeking to evolve a compromise which would strengthen the Congress and draw to its fold a larger number of Muslims. He sought to ensure that the principle of consensus that he had formulated in his Presidential Address should be made a rule of the organization. Finally, after prolonged consultations between Badruddin Tyabji and numerous Muslim leaders on the one hand, and with Congressmen on the other, a rule was drafted by the General Secretary of the Congress, A. O. Hume. Badruddin endorsed it and secured for it the adherence of many Muslims “who said that such a rule, if accepted, would completely obviate all remaining difficulties in the way of their hearty co-operation in the movement.” The draft rule appended



to the letter (for text, see Appendix III) dated January 5, 1888, read as follows:

“No subject shall be passed for discussion by the Subjects Committee, or allowed to be discussed at any Congress by the President thereof, to the introduction of which the Hindu or Mahomedan delegates, as a body, object unanimously or nearly unanimously, and if after the discussion on any subject, which has been admitted for discussion, it shall appear that all the Hindu or all the Mahomedan delegates, as a body, are unanimously or nearly unanimously opposed to the Resolution which it is proposed to pass thereon, such Resolution shall be dropped without reference to whether the opposers constitute the majority or the minority.”

The rule was accepted by all the 12 Standing Congress Committees with a rider to exclude past resolutions .. In a letter to *The Pioneer*, Badruddin made public the efforts made to secure Muslim support. (For text, see Appendix IV-A.)

While Badruddin was thus busy strengthening the Congress, Ameer Ali was proceeding with his plans for a Muslim conference. Following up his letter of the previous November, he wrote to Badruddin on January 5, 1888, in an effort to remove “certain erroneous impressions prevailing in some quarters as to the scope and object of the proposed conference of Mahomedans ....” (For text, see Appendix V.) Badruddin sent two letters in reply to Ameer Ali, one official and the other private, both dated January 13, 1888. (For text, see Appendices VI and VII.) They were very much along the lines of his reply to Ameer Ali’s previous invitation. “I understand your objection to be,” wrote Badruddin, “that the Hindus being more advanced than ourselves would profit more by any concessions made by Government to educate natives, but surely it is our duty if possible to raise ourselves in the scale of progress rather than to prevent other people from enjoying rights for which they are qualified. If any proposal is

made which would subject the Mussalmans to the Hindus or would vest the executive power in Hindus to the detriment of the Mussalmans, I should oppose it with all my strength, but the Congress proposes to do no such thing. Its aims are, and must be, for the benefit of all communities equally and any proposition that is disliked by the Mahomedans as a body must be excluded from it.”

“I may tell you that I have not the smallest doubt that the Congress, worked on proper principles with due restrictions and with proper safeguards for rights of our community, is capable of doing an enormous amount of good to our country, and I think we all ought to put our heads together to see whether we cannot devise means to work in harmony with our fellow subjects, while jealously protecting our own peculiar interests. Please consider these suggestions carefully and let me know your view about them ... It is a sufficient misfortune to us to be divided from our Hindu fellow countrymen without being disunited among ourselves.”

Badruddin sent similar letters to Syed Ahmad Khan and Nawab Abdul Latif on the same date.

Apart from these letters, Badruddin also wrote to Nawab Mohsin-ul-Mulk on January 14, 1888:

“Shortly stated, the object of the Congress is to promote the interests of India generally by bringing into focus the concentrated opinion of all the educated and intelligent people from all parts of India, quite irrespective of their caste, colour and creed. In my opinion no question can or ought to be discussed by the Congress if the Muslim community as a body is opposed to it, nor when one Presidency as such is opposed to another. These matters I would treat as fit subjects for discussion by the Provincial Associations or the sectional associations representing a particular province or community. But there are many



questions of great vital importance to us all—which affect us—Mahomedans no less than our Hindu or Christian fellow subjects, such as, for instance, taxation, the making and execution of law, the system of education, the expenditure of the Empire, etc., etc., and in regard to them I am utterly at a loss to understand why the Mahomedan should not work jointly with the other communities.

“If under the pretence of the general good of India, some proposition is brought forward which is likely to prejudice our interests as a community, surely we can shut it out from the Congress by opposing it as a body upon the principle I have already stated.

“Suppose this is to be impossible, we can still oppose a particular proposition that we dislike without absolutely abstaining from the Congress altogether. In other words, we can make our opposition far more effective from within than from without the Congress.

“This is the principle on which I have always acted, and I confess I cannot understand the reasons which have induced our friends like Ameer Ali, Abdul Latif and Syed Ahmad Khan to stand aloof from the Congress. I am very much afraid that their abstention is due not so much to conviction as to a desire to stand well with the Government. I have put myself in communication with them with a view to see whether it is not possible to put an end to this unseemly disagreement, not only between the Mahomedans and Hindoos of Bengal, but even between the Mussalmans of one Presidency and those of another.

“As you take so much interest in the Congress, I shall be glad to receive your suggestions tending to make it a really useful and national institution.”

The other group's fears were best summed up by Sir Syed Ahmad about the same time as Badruddin delivered his Presidential



Address. Speaking at the Lucknow session of the Mahomedan Education Conference, on December 28, 1887, Sir Syed said:<sup>29</sup>

“They want to copy the British House of Lords and the House of Commons. Now let us imagine the Viceroy’s Council made in this manner. And let us suppose that all the Muslim electors vote for a Muslim member and now count how many votes the Muslim members will have and how many the Hindu. It is certain that the Hindu members will have four times as many because their population is four times as numerous. Therefore, we can prove by mathematics that there will be four votes for the Hindu to every one vote for the Muslim. And now how can the Muslim guard his interests? It will be like a game of dice, in which one man had four dice and the other only one.”

Sir Syed’s Lucknow speech was reported in *The Times of India* of January 17, 1888 and created quite a sensation. Even *The Times of India*, while praising the speech, could not help adding that it was “in places perhaps intemperate.” Intemperate it certainly was and it incensed Hume immensely. He wrote to Badruddin urging him to reply to the attack and even sent a draft reply.<sup>30</sup> Apparently Badruddin disagreed with the course of action which Hume suggested and counselled restraint.

Hume wrote again on January 22, 1888:<sup>31</sup>

“This is a Mahomedan crisis—the whole country throws the responsibility on you. By this time next year, I fully believe that the Mahomedan difficulty will, thanks to your personality, have disappeared but, in the meantime, the

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29 Jamiluddin Ahmed’s article in *The Morning News*, Karachi, March 23, 1960. *Sir Syed Ahmad Khan-ke-Lekcharon-ka-Majmua*, edited by Munshi Sirajuddin, 1890. See also *Evolution of Pakistan*, by Syed Sharifuddin Pirzada, The All Pakistan Legal Decisions, Nabha Road, Lahore, 1963, p. 51.

30 *Badrudin Tyabji*, by Husain B. Tyabji, p. 199.

31 *Source Material for a History of the Freedom Movement in India*, Vol. II, 1885-1920, p. 70.

interests of the country are largely at stake and despite your work, I must—I should not be doing my duty if I did not—worry you for advice and assistance. I will do exactly what you counsel, but I must make sure that you look at the question all round and really give it that careful consideration that it demands.”

By now Sir Syed replied to Badruddin on January 24, 1888, repudiating the very idea of unity:

“I do not understand what the words ‘National Congress’ mean. Is it supposed that different castes and creeds living in India belong to one nation, or can become a nation, and their aims and aspirations be one and the same? I think it is quite impossible and when it is impossible there can be no such thing as a National Congress, nor can it be of equal benefit to all people.” (For text, see Appendix VIII).

Badruddin replied on February 18, 1888:

“Of course there are questions which may be for the benefit of one race or one community, or one province only, but such questions ought not to be discussed in the Congress at all. It seems to me, therefore, that no one can object to a Congress of this kind, unless he is of opinion that there are no questions at all which concern the natives of India at large. Your objection to the Congress is that ‘it regards India as one nation.’ Now I am not aware of anyone regarding the whole of India as one nation and if you read my inaugural address, you will find it distinctly stated that there are numerous communities or nations in India which had peculiar problems of their own to solve but that there were some questions which touched all those communities and that it was for the discussion of these latter questions that the Congress was assembled.” (For text, see Appendix IX.)



In those days expressions like ‘nation’ and ‘community’ had not attained that precision which they have acquired today and both Sir Syed and Badruddin were using the term ‘nation’ to denote the Urdu word *kaum*, i.e., a homogeneous group or community. But what stands out in the exchange is that while Sir Syed dismissed any possibility of co-operation with the other communities, Badruddin held it not only desirable but necessary. Muslims, he wrote, should “advance the general progress of India and at the same time safeguard our own interests.” His faith in Indian unity is manifest.

Meanwhile, Badruddin’s plan of securing universal acceptance of the Congress was running into heavy weather. The dissent came not only from Sir Syed, but also from within the Congress ranks. Hume wrote to him on February 29, 1888, reporting his discussions with various leaders, regarding the proposed rule: “They agreed to the principle, but they say supposing at the next Congress there are mainly N.W.P. and Oudh Mahomedans and under Sir Ahmad’s direction they muster strong and declare we are unfit for representative institutions, where would we be? We are committed to certain things, we cannot go back. I must tell you that it is really the Mahomedans themselves who say this in many cases. I think all would agree at once to the rule with the following rider:

‘Provided that this rule shall only refer to subjects to which the Congress does not already stand committed and nothing therein contained shall enable the other community to ban the discussion of or the reaffirmation of the subjects fairly discussed and disposed of prior to the passing of this rule at either of the first three Congresses.’

Now would you accept such a rider? It seems to me only reasonable.”

Hume himself made light of the fears that Sir Syed’s men would be able to manipulate a Congress session in the manner feared. “I pleaded very hard for it and at last I told them point



blank—we cannot succeed against the powerful adversaries we have, except we fight united—we cannot conquer—unless we have a cordial and practically unanimous co-operation of our Muslim brethren. Unless you accept the principle of this rule, you won't get this ... You may have a purely Hindu Congress, but you won't have Mahomedans and a purely Hindu Congress will carry little weight either in England or in India.

“But they said ‘Why did the Mahomedans want such a rule. We would never do anything that was generally disapproved.’ I said I believe that, but you are a great majority. They are a minority. If the case was reverse, believe me, you would not throw in your lot with theirs, without somewhat similar arrangement.”

Hume urged Badruddin to accept the proviso to the rule he suggested. Hume also suggested that Badruddin might write a letter to the press narrating the background and mentioning the rule in an effort to remove the fears commonly entertained. This Badruddin did in the form of a letter to *The Pioneer*. (For text, see Appendix IV—A.)

Badruddin accepted the rider and the rule was eventually adopted by the Allahabad Congress of 1888 as Resolution No. 13. (See Appendix IV—B)

Badruddin had barely consolidated his Congress front when Sir Syed fired yet another salvo in his famous Meerut speech of March 16, 1888. He was now less vituperative and in fact paid a tribute to Badruddin saying:

“I desire to say this that except Badruddin Tyabji, who is a great man, whom I greatly respect, there was no eminent gentleman who took part in the Congress. But I think that he had made a mistake. He wrote to me two letters of which one was after my Lucknow speech was published. I think he wishes that those things may be pointed out to him which are against the Mussalmans and that he may not allow them to be discussed in the Congress. But

in fact all the subjects of the Congress are unsuitable to our community.”

This was the crux.

The issues were now being clearly defined in the great debate between Sir Syed and Badruddin. While Badruddin believed that cultural and religious differences were no bar to united action with the Hindus on questions affecting the country as a whole and, indeed, stressed the community of interests in this regard, Sir Syed exaggerated the differences and regarded matters common to Hindus and Muslims as but minor. To Badruddin what united Hindus and Muslims in the political sphere was as real, significant, and valuable as what marked them apart in their religion and culture. With this Sir Syed profoundly disagreed. At Meerut he said:<sup>32</sup>

“Let my friend, Mr. Badruddin Tyabji, leaving aside the minor questions common to Hindus and Muslims (because there is nothing in the world which does not share some features in common with others ... ) tell me whether there is any basic political question which can be brought before the Congress and is not detrimental to the Muslims.”

Badrudin made no more effort thereafter to win over Sir Syed. Instead, he concentrated on propagating the Congress creed. A circular letter, to be addressed to the British electorate, was drafted in May that year over the signatures of the Presidents of the First, Second and the Third Indian National Congress, i.e., Bonnerjee, Dadabhai Naoroji and Badruddin himself, setting forth the Congress programme and the record of the proceedings of the last Congress in order to acquaint the British public “with the unfortunate circumstances in which so many of your fellow

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32 Jamiluddin Ahmad’s article in *The Morning News*, Karachi, dated March 23, 1960. *Sir Syed Ahmad Khan-ke-Lekeharon-ka-Majmua*, edited by Munshi Sirajuddin, 1890, p. 303. See also *Evolution of Pakistan* by Syed Sharifuddin Pirzada. The All Pakistan Legal Decisions, Nabha Road, Lahore, 1963, p. 53.



subjects are placed.” The appeal claimed that the Congress was representative of India.

Badraddin also distributed copies of the Report of the last Congress within India itself. Seizing upon it, Theodore Beck, Principal of the Aligarh College and a confederate of Sir Syed, wrote to him on May 7, 1888, painting a fearful picture that the Congress agitation “will sooner or later cause a mutiny among the inhabitants of these provinces and the Punjab. If this be joined with a Frontier War, it will be a disastrous affair.” The whole Mahomedan community of upper India, Beck said, was “distressingly poor.” And what was more, their religious fanaticism was not dead. Agitation would therefore lead them to the path of war against the British. Much the same fears were expressed by Sir Syed also in his Meerut speech when he pointed to the heavy hand of British repression that fell on the Muslims for their part in the Mutiny.

It is curious to note how the so-called Muslim militancy was being exploited as part of the divide and rule policy by those Englishmen who professed to support the Muslims as also by those who distrusted them. A lampoon on Lord Harris entitled “A Governor’s Meditation” was very popular in Bombay in those days. It was written by an Englishman who obviously aspired to play among the Hindus the role which Beck played among the Muslims. The lampoon read:

“To decry the Congress, the Hindoos we have to call a  
turbulent race,  
Though it is really the Moslem that we have had to face,  
For, though, large Hindoo processions may go without Police  
escort,  
Why, every Friday, to extra Police we have to resort,  
To see that the congregating Moslems on their Sabbath  
day,  
Break forth in no fury, after they have ceased to pray.”



Badruddin was being pressed from all sides. To keep up defending the Congress against the attacks of Sir Syed, Beck and the like was one thing, to consolidate the ranks of the Congress another. But it pained him grievously to find that dissent should have risen in the very organisation which he had fathered, the Anjuman-e-Islam.

The Anjuman, as usual, received an invitation to send delegates to the Allahabad session of the Indian National Congress. Meeting on July 27, 1888, it resolved unanimously to send its representatives, but two members, Mr. Mohammad Husain Hakeem and Khan Bahadur G. M. Munshi, while supporting the resolution, suggested that a public meeting be held to secure greater support. A meeting was therefore convened on August 5, 1888. However, on August 2 and August 4, other public meetings were called by these very gentlemen at which resolutions were passed urging Muslims to keep away from the Congress. In addition, disorder was created at the Anjuman's meeting on August 5 and the anti-Congress Press publicized these disturbances. Badruddin convened yet another meeting on August 15, 1888, at which he presided. In his speech he gave a detailed account of Muslim participation in the Congress, pointing out how the Anjuman had been associated with it right from its inception. He then read out the correspondence exchanged between him and the other Muslim leaders and finally referred to the unanimous resolution of July 27. The upshot was that the resolution of July 27 was reaffirmed. Badruddin had the report of this meeting widely distributed.

The first to congratulate him, as may be expected, was Hume,<sup>33</sup> who wrote: "You have happily drawn the line, education and the Congress on one side and ignorance and the opposition on the other ..." Hume also expressed "the pleasure I have felt in the masterly manner in which you managed that whole meeting—alike in what you said, and in what, though you must

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33 *Source Material for a History of the Freedom Movement in India*, Vol. II, 1885-1920, p. 75. See also *Badruddin Tyabji*, by Husain B. Tyabji p. 214 and Husain B. Tyabji's Notes on the correspondence, p. 110.

have longed to say it, you kept quietly in your heart. You are a man that anyone may be proud to call a friend—when you do come forward, you just do the thing with a tact, wisdom and certainty that no living man can better. More power to your elbow!

I hope that now a larger portion of even ignorant Mussalmans will realise who their best leader really is.”

Meanwhile, Badruddin carried on an extensive correspondence with leaders all over India, in which he expounded his views. A letter dated September 9, 1888, came from the Secretary of the Ellore Branch of the Central Mahomedan Association seeking to know what special advantages Muslims had in joining the Congress and citing various objections raised against the Congress by some Muslim leaders. Badruddin’s reply of September 22, 1888 (for text, see Appendix X) has been described as a classic summing up of his political creed, second only to his Presidential Address in importance. Perhaps since the issues in the controversy had by then crystalized, it was a more comprehensive exposition of his political outlook. After complimenting the Mussalmans of Ellore for taking an intelligent interest in the role of the Congress, Badruddin said:

“The Congress is not a movement by the Hindus, but was the result of the combined deliberations of the most intellectual representatives of the different communities of India. It is nothing more than an ordinary political association or Anjuman except that it is on a very much larger scale and does not belong to any particular province, but seeks to represent the wishes and desires of the whole Indian community. The question of religion has nothing whatever to do with it.”

This eloquent passage gives a lie to the criticism one hears from Badruddin’s detractors that he did not believe in the ideal of “supra-religious nationality.” It shows that while speaking of “the different communities of India,” Badruddin never failed to



relate them as but parts of “the whole Indian community,” reiterating in this context the irrelevance of religion. He proceeded:

“Good government, reform in the administration, economical management of the finances, the reduction in the taxes, better administration of justice and the larger employment of the natives of this country in Government service, etc., etc. are questions which do not affect any particular community only, but affect all as a whole, whether we are Hindus or Mahomedans or Christians or Parsis.”

In reply to the question as to what advantages Muslims will gain by joining the Congress, Badruddin’s answer was:

“They will gain the same advantages as the Hindus, the Parsis, or Christians, and that it is the duty of all people who call India their motherland to unite together for the purpose of promoting the common good of all, irrespective of the distinction of caste, colour or creed ...”

A finer exposition of secularism would be hard to find.

Badrudin calmly considered the gains and losses in the battles that had been fought during the year. At Madras he had declared that he would participate as a delegate at the next Congress, but he wondered later whether the cause would not be furthered more by his abstention than by his participation, and he set about consulting a few friends. Telang also felt that it would be better if Badruddin did not participate in the Congress.<sup>34</sup> Badruddin clearly wanted to take the heat off the agitation rather than force the pace. But Hume would have none of this and pleaded with him<sup>35</sup> to adhere to his previous decision and participate in the forthcoming Congress. Badruddin was then at

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34 *Badrudin Tyabji*, by Husain B. Tyabji, p. 223.

35 *Source Material for a History of the Freedom Movement in India*, Vol. II, 1885-1920, p. 80.



Matheran. After the fullest consideration, he replied to Hume on October 27, 1888:

“I write to you of course as an ardent friend of the Congress desiring nothing so much as its success. You have no doubt been watching the movements of the Mahomedans; but still you are probably not so well acquainted with their feelings as I am. Again, I have been discussing the matter with thoughtful members of the different communities who are all in favour of the Congress. What I write now, therefore, may be taken to represent the views not only of myself and other leading Mahomedans of Bombay, but such men as Mehta, Telang, etc. We are all of opinion that having regard to the distinctly hostile attitude of the Mahomedans. which is becoming daily more pronounced and more apparent, it is time for the friends, promoters and supporters of the Congress to reconsider their position and to see whether under the present circumstances it is or not wise for us to continue holding Congress meetings every year. My own view is that the friction and bitterness which are caused by this agitation every year outweigh the advantages to be gained.” (For text, see Appendix XI.)

Badruddin's suggestion was :

“I should like to make the Allahabad Congress as great a success as possible and I should then like the Congress to be prorogued, say, for at least five years. This would give us an opportunity of reconsidering the whole position and if necessary of retiring with dignity and would at the same time give us ample time to carry into execution our programme, which has already become very extensive. If at the end of the five years our prospects improve, we can renew our Congress. If not, we can drop it with dignity conscious of having done our utmost for the advancement of India and the fusion of the different races into one.”

Clearly it was the rift within the Anjuman which had hurt him and made him hesitate.

Hume, however, disagreed with Badruddin's estimate. In his letter of November 5, 1888, he cited figures to show that while in Oudh and N.W. Province the Muslims were against the Congress, in the Punjab, Bihar, Eastern Bengal and Madras, they supported the Congress.<sup>36</sup> It is significant to note that notwithstanding Badruddin's letter of October 27, 1888, the Anjuman under his leadership went ahead with its decision of August 15 to send delegates to the Congress. On December 5, a meeting was held to nominate the delegates. It ran a chaotic course and had to be adjourned. On December 11, 1888, Badruddin, Amiruddin (his brother), Abdulla M. Dharamsi and Mr. (afterwards Sir) Fazulbhai Vishram were elected as the Anjuman's delegates to the Congress. But it was a decision taken by a narrow majority of eleven votes to nine. Badruddin was too much of a realist to have ignored the lesson it carried. Thenceforth, he concentrated, almost exclusively, on the advancement of Muslim education and social uplift.

Badrudin did not attend the Congress session of 1888. His own Anjuman-e-Islam was in disarray. Camruddin was on death-bed. Rogay, whom Badruddin expected to succeed Camruddin, had become mentally deranged. Nonetheless, the Anjuman was, for all that, moving forward. The foundation of the building which now houses that institution was laid on March 30, 1890, and the building itself opened on February 27, 1893. By then, both Camruddin and Rogay had passed away. Badruddin's loneliness must have been profound. These were the men who had assisted him to set up this great institution. There were battles to be fought and battles to be won.

Having withdrawn from politics, education and social reform claimed almost his entire attention. Sir Andrew Scoble, the Legal

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<sup>36</sup> *Source Material for a History of Freedom Movement in India*, Vol. II, 1885-1920, p. 85.

Member of the Viceregal Council, was seeking to change the law in order to raise the age of consent for marriage from ten to twelve years and to make it an offence for a girl to be sent to her husband before she had attained the minimum age. Such stalwarts like Byramjee Malabari, Ranade and Telang had extended their support, while Tilak led the opposition. Muslim opinion was divided, with the majority opposed to the changes. Badruddin supported the cause of reform with his usual enthusiasm. Presiding over a meeting of the Anjuman-e-Islam on March 8, 1891 (*The Times of India*, March 10, 1891), he analysed the Bill in the light of the Muslim law and argued that it in no way offended it. The meeting supported the proposed changes pronouncing them as fully consistent with the Islamic tenets, and the Anjuman sent a memorial to Government on the lines of the resolution.



## The Great Judge

**I**N India's legal history, there have been great lawyers and great judges, but very few who have been both. Badruddin was one of them. As a lawyer he was one of the leaders at the Bar, a dreaded cross-examiner with a personality that commanded respect and even awe. Yet he has been among India's truly great judges.

The eminence that he achieved was not because of his deep knowledge of the law alone, but also due to the force of his personality, his robust commonsense and fierce spirit of independence. Lawyers generally tend to divide judges into two categories—the legalistic judge, the darling of the lawyers, and the equity-minded judge. The former is primarily concerned with the judicial process. The latter, like Badruddin, exclusively concerned with the product of the process. Badruddin described his own technique thus:<sup>37</sup>

“When a case came up before me involving points of law, I would first think out my conclusions on the general principles of law, unfettered by case law, and having arrived at my own conclusions thus, I would look to case law only to ensure the correctness of my own conclusions.”

He was a quick judge, ever in control of the proceedings of the court, and was therefore considered to be—to use another

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37 *The Bombay Law Reporter*, Vol. VIII, 1906, Journal, p. 251.

lawyer's phrase—"a strong judge." He was quick to seize a point and his judgments were a model of lucidity. By nature he was quick-tempered and capable of severity. Yet, it had been said of him, "No other judge can show more kindness and courtesy than does Mr. Justice Badruddin whose judicial courtesy has by this time become proverbial among the members of the Bar."

Badruddin's appointment as a judge was universally welcomed. Letters of congratulation poured in, among others, from Mr. (later, Sir) Chimanlal Setalvad; the Nizam of Hyderabad; Mr. F. Pollock, later to win renown for himself as a great jurist; Lord Reay and Mr. Motilal M. Munshi. It was left to the Editor of *Rast Goftar*, Bombay, to sum up the unanimous feeling: "It is not only a great honour to your community and the able family of my old friend Tyabji Bhaimiya, but it is an honour to the nation and to us all the natives of India whom you so brilliantly represent."

Speaking on the Ilbert Bill, Badruddin had once laid down the qualifications of a good judge. These were, he said, "sound knowledge of the law and a thorough acquaintance with the world, combined with the ability to appreciate evidence." Badruddin had these in ample measure.

He was no erudite jurist and did not care to be one. As a distinguished lawyer wrote of him in an appreciation published after his death (*The Times of India*, September 1, 1906) :

"His ideal of a judge was one who, having furnished himself with well settled principles of law and justice and a knowledge of human affairs derived from experience, applies his good sense to the settlement of disputes between man and man. 'What a great judge was Sir Michael Westrop?' said I once to Mr. Tyabji, 'his judgements, are a treat to read.' And he replied, 'Westrop was undoubtedly a great judge. In fact, our High Court owes most of its best traditions to him, but he took a long time over several of his best

judgments and some of them had to be delivered after the parties concerned had died. Westrop wrote his judgements as if he lived for posterity’.”

The lawyer reported another conversation which throws an interesting light on the judicial office.

“On another occasion we were talking about the impression which prevails in some quarters that the life of a judge of the High Court was one of ease and dignity, with long vacations, plenty of holidays and off days in the bargain. Mr. Tyabji was recounting to me the mental strain and the worry of a judge’s life. ‘If you people outside Bench,’ he remarked, ‘can perhaps realise the pains we have to go through.’ ‘But surely, Mr. Tyabji, is it not true of the judges as it is of the poets—there are pleasures in judicial pains which only judges know?’ ‘Yes,’ he replied, ‘the work involves a good deal of human interest and there is no doubt of the intellectual pleasure of it which is denied to the Executive Officer who always envies the judge. But look at the growing mass of the Law Reports. These Law Reports are becoming a cumbrous affair and I sometimes wish we could manage to get on without them’.”

In those days, European counsel often assumed superior airs which quite a few Indian judges left unchecked. Badruddin, having led many a campaign against racial discrimination, was not the one to put up with it. Once when a European lawyer compared the evidence of Indian with European witnesses in a derogatory manner, Badruddin came down upon him and said:<sup>38</sup> “It is an insult to this country to say that the natives of this country, no matter what their position, character and education may be, are always less truthful than Europeans. In my opinion, Mr.—————, the difference between European witnesses and Indian witnesses is this: that the one class will state the truth up to the point where their interest does not suffer,

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38 *The Bombay Law Reporter* Vol. VIII, 1906, Journal, p.252.



whereas the other class will often tell lies needlessly and deny facts which for the purpose of saving their interest they need not. The truthfulness of the former class, therefore, which tells the story plausibly, as near the truth as possible, is much more difficult of detection than the latter class. But to say that European witnesses do not tell lies is to say what daily experience does not warrant.”

Once when the Advocate-General, Mr. Lang, arguing a case relating to a Muslim Wakf, submitted that he could not find any Muslim authority on the point, Badruddin from the Bench remarked: “Mr. Advocate General, to say that such a point as this is not covered by the reported decisions on Mahomedan Law is an insult to the dignity and the majesty of the Mahomedan Law.” The Advocate-General apologized and explained that what he meant was not that the authorities were not there, but that they were difficult of access for him.

A very comprehensive appreciation of Badruddin, the judge, has been penned by Dr. M. R. Jayakar, himself a great jurist:

“To those who were courteous, he was equally so. To the arrogant and slipshod he was crushing in reproof. In my time there were some undeserving practitioners who got on more owing to the colour of their skin than by their own merit. It was a sight to see such counsel writhing with anger in his Court at the unmasking of their unpreparedness or incompetence.” (For full text, see Appendix XII.)

Once a derogatory reference to the Indian National Congress was made in his Court. “I have been the President of the Indian National Congress,” declared Justice Tyabji in stern tone and resonant voice. “I have always regarded it as the highest honour, higher than being on this Bench. I entertain great esteem for the Indian National Congress and for the Indian patriots connected with it. Let me tell Counsel that in my Court no contemptuous reference to that body will be permitted.”

Perhaps the most glorious example of Badruddin's independence as a judge was put to the test in the famous Tilak case. Plague was raging in Poona and the Government of Bombay was panic-stricken. It was remiss in providing adequate medical service, and made up for its lapses by coming down heavily on any criticism, smelling sedition everywhere. Tilak was among the critics who had written a series of articles in *Kesari*, which he edited. Before long he was arrested and committed to the Criminal Sessions of the Bombay High Court on a charge of sedition. An application for bail to the Chief Presidency Magistrate was rejected. Another application was made to the Division Bench of the High Court, consisting of Mr. Justice Parsons and Mr. Justice Ranade, but that also proved unsuccessful. As soon as the committal proceedings in the Magistrate's Court were over, Mr. D. D. Dawar, who represented Tilak, applied for bail to the same Bench. Once again the application was unsuccessful. A few days thereafter when Badruddin was presiding at the Sessions, Mr. Dawar made 'his fourth attempt to get Tilak released on bail, arguing that he would be seriously hampered in the Court of Sessions if he was not released on bail. Badruddin's judgment granting bail created quite a sensation. Apart from its immediate effect, the judgment is notable for a thorough discussion of the principles which should govern the grant of bail to accused persons.<sup>39</sup> "I cannot believe," wrote Justice Tyabji<sup>40</sup> in his judgment, "that a gentleman in Mr. Tilak's position would not be forthcoming at the trial. On the other hand, I can quite see that the ends of justice might be defeated if I refused to grant bail, for it is just possible that if he is imprisoned for a month, it might ultimately be found that he was not guilty. I think, therefore, I should best exercise my judgment if I admitted the accused on bail."

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<sup>39</sup> *The Neglected Judgement, Bombay Law Reporter*, Vol. VIII, 1906, Journal p. 253.

<sup>40</sup> *Badrudin Tyabji*, by Husain Tyabji, p. 290.



Yet another notable judgment of his in the case of *Kessowji Issur v. G.L.P. Rly. Co.*<sup>41</sup> was described by the Privy Council as the “excellent judgment” of Badruddin Tyabji who had tried the case. The plaintiff had sued the G.L.P. Railway for damages for personal injuries sustained by him through their negligence. He was travelling in their train from Bombay to Sion Station. His case was that the train overshot the platform at Sion and the passengers, on the implied invitation of the railway company, alighted where the train stopped. It was dark and there were no lamps around. No warning was given to the passengers that the train had passed the platform. The plaintiff fell heavily, was seriously injured and lay disabled from business. Badruddin, who tried the case, awarded the plaintiff Rs. 24,000 as damages in a judgment which the Privy Council said “presents a careful and complete analysis of the evidence.” The Railway Company applied to Badruddin for a review of his judgment on the ground that since the trial there had come to their possession new evidence to the effect that one of the employees of the plaintiff had said that he had lost the employment owing to causes unconnected with the accident, whereas the plaintiff had sworn that the loss was due to the accident. Badruddin rejected the review application. The Company appealed and renewed their application for adducing further evidence to the Appellate Court which granted it. Several witnesses were examined in the Appellate Court. Indeed, the Appellate Court visited the scene of the accident and reconstructed the incident under conditions approximating as closely as possible to those which prevailed when the plaintiff met with his injuries. Having done so, the Appellate Court came to the conclusion that the accident was due to the plaintiff’s own negligence and that the Company was not liable. On Kessowji Issur’s appeal, the Privy Council set aside the Appellate Court’s judgment and restored the judgment of Mr. Justice Tyabji, criticising strongly the Appellate Court’s admission of fresh evidence, as also its visit to the site.

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<sup>41</sup> *Bombay Law Reporter*, p. 671.



How seriously Badruddin took his responsibilities as judge is evident in a letter which he wrote to his son Husain (December 5, 1896) : “Bhawanagaree M.P. is in Bombay. He had an entertainment given to him by some members of the Muslim community last evening. Though he is a personal friend of mine, I did not go to this entertainment owing to its political character. There is a dinner in his honour this evening which I will attend as it is purely social and private concern.”

Sir Chimanlal. Setalvad in his memoirs cites two instances of Badruddin’s judicial independence and fearlessness as a judge’:<sup>42</sup>

“Tyabji had a clear grasp of principles and was able to appraise evidence at its true value. He was very independent and fearless. I well remember the judgment which he delivered in suit for defamation that was filed against Kabraji’, Editor of *Rast Goftar*, by Chambers who was the Editor of the *Weekly Champion*. Chambers was a well-known architect in those days. He was a radical in English politics and took an active part in the Indian National Congress movement. In Kabraji’s paper, an attack was made incidentally on the Indian National Congress, which Tyabji held to be unfounded. In his judgement he said that he considered it a high honour that he had been once chosen as President of the Congress.”

Sir Chimanlal says :<sup>43</sup>

“It was Badruddin Tyabji who made the order for giving bail to Tilak when he was prosecuted in the year 1897. On one occasion, some question of practice arose in a case before him and Raikes who was arguing said that Chief Justice Jenkins had in another case said that the practice was as he was submitting. Tyabji, playing with his beard as he often used to do, said: ‘Mr Raikes, you can tell the

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42 *Recollections and Reflections*, by Sir Chimanlal Setalvad, Padma Publications, Bombay, 1946.

43 *Ibid*.

Chief Justice with my compliments that I have been longer in this Court than he has been and that the Chief Justice's view on the particular question of practice was quite wrong."

At all times Badruddin's writings were models of lucidity. He had convicted one William Brodie, an officer of the Salvation Army, of culpable homicide not amounting to murder and attempt at robbery, and sentenced him to seven years' rigorous imprisonment. When the International Headquarters of the Salvation Army petitioned to the Governor for clemency, the Governor sent the petition to Badruddin for his opinion before exercising the prerogative. Badruddin's reply was: "It seems to me that the present application is rather in the nature of an appeal from the verdict of the jury and the judgment of the court than a real application for the exercise of the prerogative of mercy and I can see nothing in the memorial which in my opinion justifies the exercise of any such prerogative." The Governor rejected the petition for clemency.<sup>44</sup>

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44 *Badruddin Tyabji*, by Husain B. Tyabji, p. 285.

## Education and Politics

**T**HE humiliating treatment of Indians in South Africa had begun to arouse intense resentment in India. There was a proposal about this time that the Bombay Presidency Association and the Anjumane-Islam should jointly convene a public meeting to voice popular resentment. Considering the phase through which the Anjuman was passing, it was not surprising that this suggestion should have aroused opposition. Badruddin delivered a crushing reproof to the opponents of the proposed meeting. He took the occasion to stress that it was a question on which the Muslims should join hands with other communities to uphold the rights and interests of Indians as a whole. Although the proposal was carried, for various reasons the meeting could not be held.<sup>45</sup>

Badruddin was as magnanimous in public life as he was in private. His great opponent, Sir Syed Ahmad Khan, died on March 27, 1898. He had, indeed, caused Badruddin much agony and anguish over the years. But Badruddin convened a condolence meeting of the Anjuman and expressed just appreciation of the services Sir Syed Ahmad Khan had rendered to the cause of education.

He enthusiastically supported the proposal to develop the Aligarh College into a University in Sir Syed Ahmad Khan's honour. Replying to a letter from Nawab Mohsin-ul-Mulk (dated December 5, 1896), he wrote:

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<sup>45</sup> *Badruddin Tyabji*, by Hussain B. Tyabji, pp. 257-59.



“I have the honour to state that in my opinion Mr. Morrison’s scheme about the Aligarh University is a good one, and that Western education should not be altogether dissociated from oriental and religious teaching. Our great misfortune has been that the most learned of our Moulvies and theologians are entirely ignorant of every other branch of knowledge except their own. The result is that we have a narrow-minded, bigoted and fanatical set of religious teachers, who are looked upon with contempt by people of any enlightenment. We must put a stop to this, so that our future learned men may also be enlightened and educated men in the true sense of those words. On the other hand, I think it equally important that the Mussalman young men, who have acquired the knowledge of Western literature, arts and science, should not be altogether ignorant of their own language and literature, history and religion. The scheme has my hearty approval and I have much pleasure in subscribing Rs. 2,000 towards its endowment.”

In 1896, Sir Syed Ahmad Khan had established the Mahomedan Anglo-Oriental Educational Conference and had become its permanent Secretary. Although initially devoted to the cause of education, the Conference soon became a platform for the propagation of Sir Syed’s political ideas and Badruddin kept aloof from it. Five years after Sir Syed’s death, however, Badruddin was invited to preside over the 17th session of the Conference. The Conference met in Bombay on December 28, 1903. There were representatives from all over India, including the illustrious Khwaja Altaf Husain Hali, the Muslim social reformer and man of letters. A more distinguished Muslim audience had never met before. Among those on the platform were the Governor, Lord Lamington, the Aga Khan and Sir Jamsetji Jijibhoy.

In his Presidential Address Badruddin lost no time in expounding his entire position regarding the National Movement and organisations like the Conference. Preceding him, Nawab Mohsin-ul-Mulk had referred to his unsuccessful efforts to

associate Badruddin with the Conference. As The *Madras Standard*<sup>46</sup> wrote on his death, after he had become a High Court Judge and withdrew from active participation in the Congress, “Some of his narrow-minded co-religionists with the help of the Anglo-Indian members gave currency to the sinister report that Mr. Justice Tyabji had been so convinced by the arguments of a well-known Mahomedan leader that he had severed his connections with the Congress Movement.” Mr. Tyabji’s attention was called to this and on two different occasions he repudiated this suggestion and reaffirmed his active sympathy with the Congress. The first was at the Conference, the second on the Bench.<sup>47</sup>

In the course of his Presidential Address, Badruddin said:

“Gentlemen, you are no doubt aware that although the Conference has been in existence for several years past, I have not hitherto been able to take any active part in its deliberations. No doubt there have been many reasons for this, to which it is unnecessary to refer. But there is one in regard to which I must say a few words. Gentlemen, you are probably aware of my peculiar position in reference to the Indian National Congress. In my younger and freer years, when I was not trammelled with the restraints and responsibilities imposed by my present office, and when I was, therefore, able to take more active part in public life, and especially in the politics of the Empire, I deemed it my duty to support the Congress, and as you may perhaps know, I had the honour of presiding at the Congress held in Madras some years ago. On that occasion, I described my election as the highest honour that could be paid to any Indian by his fellow subjects of the Empire. Being of that opinion at that time, and being still of that opinion now, you will readily understand that it was not possible for me to take any part in connection with any institution which

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46 Dated August 23, 1906.

47 See p. 100.



had, or could be suspected to have, the slightest trace of being hostile or antagonistic to the Congress. Now, however, when the position of the Conference is well defined as an educational and social institution, and therefore there can be no semblance of hostility or antagonism between these two institutions, I could with perfectly easy conscience accept the high honour of presiding at your deliberations.”<sup>48</sup>

Badraddin was shrewd enough to perceive that under a different President the Conference might soon relapse to its former self. He, therefore, remarked, “I am sure that the absence of any well—defined constitution must always tend to make the duties and functions of the Conference somewhat vague and uncertain ... Gentlemen, this Conference has always been hitherto known as an Educational Conference. Its main duties must, therefore, be confined to questions connected with education.” In his opinion, these included “moral, social, intellectual, and physical education.”

With regard to politics, he said, “While I would include political education as remotely or indirectly connected with the functions, it will be well for us to keep carefully in mind that we ought not to meddle with politics in so far as they can be separated and are distinct from the functions, and in so far as it has no direct or immediate bearing on our intellectual development. It seems to me that we should be acting wisely if we exclude introduction of politically controversial questions from our discussions altogether.”

Having thus laid the ground, Badruddin went on to make certain observations which could not have failed to shake his listeners. He said:

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48 Recalling this remark, *The Hindu*, August 21, 1903, wrote, “A manly declaration of this kind, it would be impossible to expect in the circumstances in which it was made from any Indian official, however high, in this part of the country. The steadfast loyalty of Mr. Justice Tyabji to the Congress and his courageous declaration to stand by it in the face of a not too friendly audience, constitute a rare and distinguished excellence of mind.”



“Generally speaking, political questions affected the whole of the Empire more or less evenly. It is only seldom that political questions arise which affect only one community. Our guiding principle therefore should always be that in so far as general political questions are concerned, that is, questions which affect the Empire as a whole and all the communities together, and not merely the Mussalman community, then, in such case, the Mussalman and all other communities in India ought all to work together hand in hand, and not separately or hostilely to each other. In so far, however, as any political measures are concerned, which affect our Mussalman community exclusively, then in that case, it may not only be right and proper, but even be our bounden duty to make our voice heard as a separate community, and to oppose by all constitutional means whatever we may consider adverse or prejudicial to our interests. Similarly, if there are any measures which tend especially to benefit our own community, it may be our duty to support and agitate for those measures ...

“But, gentlemen, these political questions, in my opinion, ought to be dealt with by a distinct political institution and not by such an institution as our Educational Conference.”

It was the old Badruddin speaking and there was no mistaking it. These views had inspired his entire public activity ever since he established the Anjuman and shortly thereafter joined hands with his friends Pherozechah and Telang in the many causes for which they worked together.

He would, he said,

“ ... entirely deprecate the introduction into our Conference of any proposition or subject that is likely to hurt the feelings of our other fellow subjects or in any way to wound their susceptibilities. What I have said, gentlemen, I think, is enough to show that in my opinion, far from

there being any cause for antagonism or hostility, there is no reason why the two great national institutions, the Congress and the Conference, should not work hand in hand, the one having for its object chiefly the political advancement of the country, and the other the intellectual advancement of the Muslim community.

“I can see no reason why these two institutions should not work in perfect peace and harmony and why the educated and the enlightened and the experienced and influential members of the Muslim community should not take part in the deliberations of both the institutions so far as circumstances and conditions permit. We can work hand in hand with all other communities in perfect harmony and co-operation so long as our own special interests are not threatened. If, however, they are threatened, then, as I have already said before, it may be our duty to oppose such prejudicial measures by every constitutional means in our power, although, in my opinion, such opposition should be conducted either from within the Congress itself or by distinct political institutions and not by this Conference.”

The Conference had indeed come a long way. Only sixteen years earlier at its Lucknow session, Sir Syed had used the same platform to declare the irreconcilability of Hindu and Muslim interests.

Badrudin then referred to the backwardness of Muslims. “We have only to turn our eyes from ourselves to the other communities to realise how far behind them we stand.” In his opinion, the main causes of Muslim “backwardness and decadence” were the Muslims’ religious and literary prejudices and the absence of female education. He said:

“Muslims were justly proud of their ancient learning. But is it necessary that in order to cherish the love of our own religion and literature we should scorn and hold in contempt, despise and discourage the study of that colossal



modern literature which has grown up in the west... ? We cannot hope for any special privilege or concession. It would be unwise for us to trust to any more favours of Government. We must compete with our other fellow subjects upon equal terms. Let us unite together. Let us remember that our Holy Prophet enjoined on us all to seek learning wherever it may be found.”<sup>49</sup>

Badruddin proceeded to make a strong plea for the spread of education among Muslim women and for the eradication of the purdah system. This ruffled greatly the doves of orthodoxy. Nawab Mohsin-ul-Mulk revealed later that he had pleaded, but in vain, that the President should remove the reference to the purdah from his Presidential Address. He asserted that the purdah was a religious question and therefore outside the purview of the Conference. There had been opposition enough over the move to have a constitution which, however, did not succeed in blocking the setting up of a drafting committee. But now a mere resolution for the establishment of schools for Muslim girls had raised a debate over the purdah. The resolution, however, was carried after an acrimonious debate. Also passed at the session were resolutions for the prevention of early marriages and marriages against the wishes of the parties; the establishment of a paper in English language, the right guidance and proper utilization of the funds of the Wakfs towards educational purposes when the original objects had failed, the introduction of the kindergarten system, and the establishment of a Muslim university.

A good many speeches in the Conference were delivered in English and these had been the subject of considerable criticism. It was even suggested that the speakers had no love for Urdu. Badruddin met the critics half-way. Delivering his concluding speech in Urdu, he said, “Gentlemen, if truly this is what you think, I can assure that I am a firm and staunch Muslim and I

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49 The quotation is: “Utlubul Ilme wa lau fis seen,” meaning, ‘Seek ye learning, even if it be in China.’



regard myself a great patron and protector of Urdu. But Bombay is a cosmopolitan place. Multifarious classes of races and trades abound here and on account of business and commerce a variety of languages are in use. Without use of these it is not only difficult but impossible to do business.” He, however, delivered a broadside against Urdu fanatics. It could not be the language of Nawab Mohsin-ul-Mulk or Moulana Shibli Nomani, but a much simpler Urdu: “I assure you I neither feel shy nor can I say that Urdu is not an important language. It is my heart-felt desire that Urdu may progress and its extent may increase.”

Referring once again to purdah, Badruddin analysed the Koranic injunctions relating to it, and pointed out how they in no way justified the purdah then in vogue among the Muslims. He spoke in a far more conciliatory tone on this subject than he had done earlier in an effort to close the ranks after his point had been accepted by the Conference.

The Conference ended with a vote of confidence and on a note of hope. For Badruddin, it was a great personal triumph. He had spoken on a largely representative Muslim platform and had had his thoughts heard with attention and respect. His remarks had been appreciated both by his co-religionists and by his fellow-countrymen. Whatever misunderstandings there had been about his attitude towards the Congress were removed for good. Dr. B. Pattabhi Sitaramayya in his *History of the Indian National Congress*<sup>50</sup> mentions that at the twentieth session of the Congress held in 1904 in Bombay, he participated in the discussion on the resolution relating to Indians in public service. Dr. Sitaramayya also mentions another interesting fact. It was at Badruddin’s instance that a Committee was appointed, at the session at which he presided in 1887 to consider the many suggestions sent in for discussion and to draw up a programme for the work of the Congress. This Committee was the precursor of the Subjects Committee of later days.

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<sup>50</sup> *History of the Indian National Congress*, Vol. I, Padma Publications Ltd., Bombay, p. 793.

When Badruddin congratulated Pherozeshah on the Knighthood conferred on him, the latter replied in a letter (June 20, 1904) : “One of my cherished recollections is the unswerving fidelity with which you have manfully handled the political creed in which we have grown up side by side. You do not know how I sometimes miss you in times of stress and difficulty, when advice as firm, as sober and as temperate as yours is sorely needed.”

Between Badruddin and Pherozeshah there existed a bond of mutual understanding and respect. Each was quick to recognize the other's merit and missed no opportunity to express his appreciation. At a banquet given to Pherozeshah on August 11, 1904, at the Ripon Club, Bombay, in honour of the Knighthood conferred on him, Pherozeshah, the hero of the evening, warmly remarked:<sup>51</sup>

“Our friends of other communities are present here and among them one whom I can claim to call, and I am proud to call, my colleague in public life, my friend Mr. Justice Badruddin Tyabji. (Loud applause.) He is a staunch Mahomedan and careful of Mahomedan interests; but he had worked with me in public life as a public citizen so long as he was on the other side of the judicial Bench. And even when on the Bench he has been a staunch and gallant champion of the public cause. He is a staunch advocate and defender of the cause of his country and of the National Congress, never hesitating to raise his voice for it whenever an opportunity offered (Applause)—and whenever an opportunity did not offer, he made it for himself.” (Loud cheers.)

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<sup>51</sup> *Speeches and Writings of the Honourable Sir Pherozeshah M. Mehta*, Edited by C. Y. Chintamani, p. 804.

## The Last Days

**B**ADRUDDIN founded a family which attained distinction in various fields. While he lived, he lived as a patriarch, the head of a clan, a Victorian gentleman, a pious Muslim who said his prayers regularly five times a day and never touched alcohol, and an ardent Indian ever sensitive to and resentful of any slight to the nation. In many ways he was the lovable tyrant. He saw how children would flock to his younger brother and not to himself and would feel sad, little realising that their love for him was tempered by the dread and awe he inspired.

To essay a portrait of Badruddin, the patriarch, one must begin with that great source of his strength, his wife Rahat-un-Nafs, "Peace of the Soul", as he called her. By all accounts, she was a forceful yet gentle character, as fastidious as Badruddin himself and fully devoted to him. She, nonetheless, had a mind of her own. Badruddin's devotion to her was complete .. Their son writes:<sup>52</sup>

"Though from the commencement of his career Badruddin had a busy time, attending Court and studying law at home, he was most conscious of the duty he owed to his wife to keep her company and entertain her. :He translated to her the great English novels of Scott and Lytton and so accustomed was he to do this that he could translate just as fast as if 'he was reading Urdu. He played drafts and bezique

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52 *Badruddin Tyabji*, by Husain B. Tyabji p. 323.



with her and by teaching and educating ‘her at home, he trained the simple country girl of fifteen to take her place ultimately among the leading women of society in Bombay.’”

Bibi Rahat knew Gujarati, Hindustani and Persian, but little English. Nonetheless, she maintained social relations with the European ladies in the Bombay society. A mother of eighteen children, with a huge household to look after, she must have been a woman of remarkable qualities.

An incident very vividly illustrates Badruddin’s relations with his wife and his children, as also the peculiar blend of quick temper and fair-mindedness that was his. It has been recorded by his nephew, Mr. Faizul Hasan, a Persian and Urdu scholar, in the family *Akhbar Book*. In December 1902, the family was vacationing at Mahableshwar. One evening, playing whist as usual, Badruddin lost his temper in an argument about the rules of the game. His opponents were Amiruddin Tyabji and Ibrahim Ahmadi who were his guests. The family decided “to prosecute” Badruddin for this lapse. The Court was presided over by his wife, with Faizul Hasan as an Associate Judge. His daughters went forth as sheriffs and arrested Badruddin who demanded that the warrant be shown to him. They refused. Badruddin, however, submitted to the arrest all the same and was taken to the Court, where he immediately demanded the right of address. The Chief Judge refused to grant his request permitting him only to sit down. She proceeded to ask the complainants, Amiruddin and Ibrahim, to state their case. Badruddin begged to be heard, but permission was once again refused. The judgment was finally pronounced: “We have most carefully considered the complaint and without having taken any evidence, and without having heard the accused, come to the conclusion that the accused is guilty. He is sentenced to give an ice-cream party to the Tyabji family at Apollo Bunder and must give security for the purpose.” Badruddin said: “I respectfully submit to the verdict, but I pray that the complainant Amiruddin should also be punished as he

provoked and incited me with irrelevant arguments.” The Court agreed and sentenced him to provide coffee. The Court then rose. Recording the incident at the end of his article, Faizul Hasan observes of Badruddin, “In his own family he regards himself as equal to the smallest.” Indeed, for all the humour of the farcical court proceedings, there was a clear disapproval of any manifestation of ill-temper, a manifestation to which even the youngest could object.<sup>53</sup>

Bibi Rahat was an active member of the Ladies Branch of the National Indian Association. She was fond of spinning and weaving and had won the first prize in the Ladies Section of the Exhibition of Industrial Arts of 1904 organised by the Indian National Congress at Bombay. Her death in June 1905 was a great blow to Badruddin. The loss of one who was to him ‘Peace of the Soul’ for forty years was not easy to bear. When she died, a Journal (*The Parsee*, July 1905) referred to her in these terms:

“Enlightened in views and ideas far in advance of her people she yet sympathised with their half reasoning, faint struggles, prejudices and fears and doubts, and quietly bided her time to take the initiative in any change when she felt the moment was ripe for it ... Hers was the spontaneous sympathy of a great nature which made her akin with persons of all castes, creeds, ages and station. Somehow one always felt at one’s best and easiest in her presence.”

While he doted on his daughters, with his sons Badruddin’s relations were friendly but reserved. He continued to admonish them, even after they had grown up, yet he loved nothing better than their company.

Badruddin was a lover of sports. He built two tennis and two badminton courts for the family and for years he played three games of badminton every morning although, as his son testifies, he was an indifferent player. Outings he loved and

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53 The author is indebted to Mr. Husain B. Tyabji for drawing his attention to this episode.



usually invited the whole clan to them. The daily walk from the High Court to his house at Chowpatty he never missed, come rain or shine.

In a letter to his son Faiz (October 8, 1892) who was then in London, he asked:

“By the way, have you learnt dancing or are you a mere spectator at these parties? I would advise you to learn dancing as besides the additional enjoyment during your stay in England which it will afford, it will give grace and pliability to your deportment and constitution in general.”

Badruddin aged quickly after his wife's death. The doctors advised him rest and he decided to leave for Europe on a year's furlough. He chose his son Husain to accompany him. On November 25, 1905, they left for Europe on S. S. Egypt.

Badruddin was a prolific and gifted letter writer. The letters he wrote from on board S. S. Egypt and from London are a sheer delight to read.<sup>54</sup> They were circular letters. Those addressed to “My darling children” were written in English, while those in Urdu were addressed to “Pyare Bhai-Behnen.” Approaching Aden, he wrote (November 28, 1905) that he was reading Oscar Browning's “interesting book on Napoleon which has thrown a new light on the life and character of that wonderful man and genius.” He found *The Talisman* very interesting and had begun Mark Twain's Double-barrelled Detective Story, “the humour of which is very different from that of his other books which I had profusely read.” Anthony Hope's *Phroso* was “a blood-curdling romance which revels in villains and murders and hairescapes.”

Badruddin and Husain arrived in London on December 16, 1905. For a man so active, vacation became tolerable only with the pursuit of his vocation, even if less intensely. Before

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<sup>54</sup> The writer is greatly indebted to Badruddin's grandson, Mr. Mohsin Tyabji for permitting him to peruse the letters and to quote from them.



long he had met Sir Courtney Ilbert, whose Bill he had done not a little to espouse, Mrs. Lecky, the Reays, Mr. Yusuf Ali, the civilian, and, of course, that great friend of India, Lord Ripon.<sup>55</sup> “Mr. Morrison, formerly of the Aligarh College, called here and I had a good long conversation with him about Indian affairs. Also Mr. Abdul Kadir, the Editor of the ‘Lahore Observer’, called here and discussed Muslim problem.”

In London Badruddin was greatly sought after by his countrymen to attend and speak at various functions and for other types of help. By January 1906, his health too was improving. Among those who approached him was Mrs. Bhikaiji Rustom Cama, whom he described to his children as “a very active and aggressive radical politician.” Mrs. Cama was canvassing for Dadabhai Naoroji who was a candidate at the British general election. Mrs. Cama wrote to Badruddin on January 9, 1906: “I know you are in London for your holidays, but it is nothing for an able man like you to say a few good words and it will carry so much weight. His voters are mostly the poor working men, and nobody can put his claims before them better than a celebrated advocate like you and his own countryman.”

Writing to his children on January 18, 1906, Badruddin observed: “So far the Liberals have had tremendous victories and the Tories have been rocked to a degree that no one could possibly have anticipated.” Unfortunately, both the Indian candidates, Dadabhai and Bhawanagaree, were defeated.

Badruddin was also requested by Vishram (February 5, 1906) “to take necessary action for the use of the Voking (Woking) Mosque for the Mussalmans here.” On February 19, he presided at a lecture delivered by Abdul Kadir on the aspirations of young India. On March 2, he was a guest at the annual dinner of the Indian Majlis at Cambridge. On May 5, the London-Indian Society had its annual dinner at which Dadabhai Naoroji presided. Gokhale and Badruddin were the two principal guests.

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<sup>55</sup> Letter of December 28, 1905.

Addressing the East India Association in March, Badruddin said:<sup>56</sup>

“Although we have been reminded that this is an occasion on which political views may be discussed, it must be borne in mind that in the position I occupy at present, I am not at liberty to discuss any political questions of a controversial character, but I believe that Government perfectly understand and recognise that the Congress is not a seditious body. I believe they recognise that the Congress does consist of a large body of people speaking with authority upon the question, and although they do not like their acts to be criticised openly, in the way that sometimes they have been, I believe that the resolutions of the Congress are really considered by Government in a sympathetic spirit; and as far as they think any effect can be given to them, I believe that they are desirous of giving effect to them and to the desires of the nation as expressed through the Congress. But after all—speaking for my own countrymen—I think we have to address ourselves more to the question of education and to the question of social reform.

“I am afraid that young India has fixed its attention too exclusively upon politics, and too little upon education and upon social reform. I am one of those who think that our improvement and progress lies not in our efforts simply in one direction, but in various directions, and that we ought to move side by side for the purpose of improving our social status and our educational status quite as much as our political status. It is no use labouring together for a representative Government of a very advanced type if the majority of our own countrymen are still steeped in ignorance, and experience shows that the majority of the Indian subjects have not appreciated the advantages of that higher education

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<sup>56</sup> *Badruddin Tyabji*, by G. A. Natesan, G. A. Natesan & Co., Madras, pp. 14-16.



upon which, I think, the fate of our nation really rests. Look at the Mussalmans. I have often in my judicial capacity had to deal with wills made and executed by my own people, and I have found that a very wealthy individual who dies, if he has no other relations, his one idea is to devote his fortune to some old-fashioned tanks, or making pilgrimages to Mecca, or reading so many hundreds of times the pages of the Koran, or things of that kind—very excellent things in themselves, but which, unfortunately, do not advance the fortunes of the nation.

“Now, if when young India becomes old and is about to make its will, it will only remember, instead of leaving their fortunes to these old-fashioned charities, to devote their fortunes to the advance of education. I think we should have very much less cause of complaint against Government because probably we should be able to do that ourselves which we now ask Government to do.

“As regards the employment of the people in Government service, I think it is a perfectly legitimate aspiration on the part of the natives of India to be employed in larger and larger numbers in the higher degrees of the public service. Natives of India possess very high natural qualifications for employment in many branches—such as the judicial, the public works, the railways, the telegraphs—and I, for one, am unable to see why much larger numbers of the natives of the country should not be employed in these departments not only without prejudice, but with great advantage, to the Empire.”

In July, Badruddin attended a dinner of the Aligarh College Association. Addressing the gathering, he said:<sup>57</sup>

“It has been well remarked by Sir Thomas that one college, however good and important, cannot possibly be

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<sup>57</sup> *Badruddin Tyabji*, by G.A. Natesan, Madras, pp. 16-17.



sufficient for the requirements of 50 or 60 million Mahomedans in India. We must have these institutions all over India and it has always seemed to me of the greatest possible importance that the educational institutions we have in other parts of the country—some of them fulfilling the humbler mission of imparting primary education, and others teaching up to the high school standard, should be raised to or supplemented by the collegiate institutions. The well-wishers of our community present tonight as guests will be pleased to hear that efforts in this direction are being made (and not without success) in other parts of India. If, as I hope, Aligarh develops into a University, it will become the centre of attraction of education for all Mahomedans, not only from the various Mahomedan schools and colleges of India, but also, it may be, from all other parts of the Mahomedan world.”

Badruddin chided northern India for its neglect of female education and asked them to take a leaf out of the book of their friends in Bombay.

Finally, he said:

“I need only add that I hope the college will develop into a real centre of Moslem education and enlightenment not merely for the North West, but for all India. There is not a Mussalman in India, certainly not in Bombay, who does not wish all prosperity and success to Aligarh.”

It was fated to be his last public speech, even though his eyes and general health were registering a marked improvement and his general outlook was quite cheerful. He visited the Hindhead Residential School for girls, where two of his daughters were studying, and was pleased with their general progress.

Badruddin met the Secretary of State, Lord Morley, and sought clarification about his own position in the High Court. Badruddin was a senior Barrister Judge who had already acted

as Chief Justice, and was therefore fully entitled to the permanent Chief Justiceship when the seat became vacant. He wanted to be assured that his claim would not be bypassed simply because he happened to be an Indian. He well remembered that though he and Mr. Strachey were appointed together, Mr. Strachey's Letters Patent were dated before his. Lord Morley gave him an assurance with which Badruddin was fully satisfied. On his part, he made it clear to the Secretary of State that if he ever found that he was discriminated against, he would resign.

In April 1906. Husain Tyabji returned to India and his place as companion was taken by his brother Faiz who accompanied Badruddin to Wiesbaden where they spent a few days.

Badruddin was making the best of his stay. In a charming letter of July 22, he described to his children the car he had bought. It was an Argyle and Badruddin liked it immensely. He wrote:

“I do not know what you will think of my conduct here. But will it surprise you to learn that I have at last after much hesitation and vacillation decided to buy a Motor Carriage? I saw a beautiful motor vehicle yesterday and it took my fancy and I have decided to buy it. It is a fine big roomy carriage, adapted to seat five persons inside, and two outside. It is closed but has glass windows on every side which can be opened, and any amount of wind or breeze can be let in. There are also screens for the purpose of shutting out too much light or glare or to satisfy the susceptibilities of ladies still enamoured of the *Purdah*. It is painted a beautiful dark green and has an apparatus on the top for carrying all necessary articles or luggage. We gave it a trial yesterday. I and Camruddin and Wazir Bibi sat inside while Faiz sat outside with the driver. The carriage moved wonderfully smoothly and the control of the driver

over the machine was marvellous. We drove to Richmond Park and Hampton Court up and down the hills and through crowded thoroughfares. The whole thing was a grand success and I have instructed Camruddin to arrange for its purchase. It will cost me about Rs. 15,000 ... The order which I gave for a new horse to match our bay Australian should be considered as cancelled.”

A month later, however, he had discovered the dark side of the creature he had bought. On August 16, 1906, in perhaps the last letter he wrote, he commented:

“The car is a beautiful creature, but it has its own freaks and sulks and requires to be managed and coaxed and treated like a delicate, sensitive and highly nervous creature. The driver must be not merely a driver but also a Veterinary Surgeon. I am charmed with the motor. I acknowledge its beauty. I am in ecstasies over its performances, but I have a wholesome dread of its sensitive temper. Now my dears, you have a very faithful description of this new animal which I am about to introduce into our menagerie at Somerset.”

Badruddin had informed his children that he had “met a number of M.P.s especially interested in the Indian question.” Also, with Faiz, he attended a lecture on ‘Self-Government for India’ given by Gokhale at which Lord Reay presided. “There was some interesting and even excited discussion,” he wrote, “I took no part, as I thought the matter had assumed a controversial political aspect.”

Always he delighted in meeting people and exchanging ideas with them. There was Le Strange; a great Persian and Arabic scholar, Pollock, the great jurist and Count Balzani, a famous Italian scholar and traveller with whom he had “some very interesting conversation on current world politics and



especially about the struggle for freedom now going on in Russia before our very eyes.”

Badraddin intended arriving in Bombay by the middle of October. But Sir Lawrence Jenkins, the Chief Justice, wired to him that he intended going on leave about the middle of September and enquired if Badruddin would return to India and act as Chief Justice. Badruddin agreed and booked a passage on the *S.S. Arcadia* to embark on August 24, 1906. The ship was to leave Marseilles by August 31 and arrive in Bombay on September 14. The cable from Sir Lawrence Jenkins gladdened him, but he had some reservations. He had had a good innings on the Bench. His holiday in London had given him some taste of the pleasures which retirement could bring. All the same he accepted the offer and returned to London on Saturday, August 18. He invited all the members of his family and friends in London to lunch with him the following day. In the evening, the company went to Regent's Park where his son Salman took photographs. They all returned to the house at 3, Cornwall Terrace near Regent's Park when Badruddin excused himself to go up to his room for a while. The visitors stayed on expecting him to return and when he did not, they thought that he was resting and left. When a long time passed and Badruddin did not return, Faiz went up. He knocked and receiving no reply tried to enter the room, but the room had been bolted from inside. Pushing open the window, he found his father fallen dead across the place. He had died of heart failure (August 19, 1906).

News of his death was flashed all over the country. The ablutions enjoined by Islam were carried out in London in the afternoon of Wednesday the 22nd August, 1906, by the two sons in London, Faiz and Salman. The service was conducted by Mr. Obeidulla Effendi of the Turkish Embassy. A meeting of the Muslim residents in London was subsequently held, presided over by His Excellency Hamid Baig, the Turkish Consul-General,

a good friend of Badruddin. Mr. Yusuf Ali paid a touching tribute at this meeting (*The Times of India*, September 8, 1906):

“Every cause which was in any way connected with the good of his community found in him a ready helper and a warm friend. Nor were his sympathies limited to his own community. His heart was wide and his mind embraced questions relating to the whole country within its grasp. It may truly be said that no Mussalman was better loved among the Hindus than he was.”

The body was brought to Bombay and placed in ‘Badar Bagh,’ a Wakf which Badruddin had created. A very large gathering assembled at the Bagh to pay its tribute to the departed leader. Then a solemn and mournful procession started (October 9, 1906) and made its way to the final resting place in the Sulemani Bohra burial ground at Karelwadi. The procession was headed by the principal mourners, the sons of the deceased, and his relations. Among those present in the procession were the Acting Chief Justice, the Judges of the High Court, Sir Chimanlal Setalvad, Mr. Ibrahim Rahimtoola, Daji Abaji Khare, a colleague in the Council, and Sir Jamsetji Jijibhoy, a witness to many of his oratorical triumphs. Not the least notable in the funeral procession was Bal Gangadhar Tilak. That great journalist, Mr. K. Natarajan, who was present in the procession, wrote in his journal *The Indian Social Reformer* (October 14, 1906):

“One heard again and again the remark made, during the progress of the remarkable procession which followed the Late Mr. Justice Tyabji’s body to its last resting-place, that seldom had there been a more representative demonstration of respect and affection in Bombay. Every shade of opinion was in evidence, the extremist and the moderate and the extremist-moderate in politics. There were men who cared little for politics but cared very much for social progress, and wished to show their regard for one



who held sturdy convictions in social matters and acted up to them. There were Mahomedans, Parsis and Hindus who valued the memory of the late Mr. Tyabji as a Judge of great force of character. As the simple and solemn last rites of Islam were performed over the coffin in the cool, shady, secluded God's acre of the sect to which the Tyabjis belong, an intense silence reigned among the vast crowd, only broken by the weird chant of the officiating priests, as it swelled from its general level of low murmur to a shrill quaver which darted into the sky like a rocket. Standing beside the open grave of the late Mr. Tyabji, one realised how petty and insignificant were the distinctions of creed and sect and how the one thing needful for a union of hearts is strength of conviction and character informed by effective and progressive ideas."

On August 21, 1906, touching tributes were paid in the High Court in a reference from the Bench to the deceased by Mr. Justice Russel, in the absence of the Chief Justice who was ill. The Advocate-General Mr. Lowndes associated himself with the tributes on behalf of the Bar.

At a meeting of the British Committee of the Indian National Congress held in London on August 28, 1906, Dadabhai Naoroji proposed and Gokhale seconded a resolution of condolence—"The administration of justice found in him a wise and learned judge, while he was an unfailing supporter of every good movement tending to the peace, progress and welfare of the Indian people."

Badruddin's death was mourned not only in the Indian Press, but also widely in the English Press. Interestingly, an American paper, *The Seattle Post Intelligencer*, in its issue of September 12, 1906, also carried a sympathetic obituary.

In Bombay, two very notable public meetings were held. One was held under the auspices of the Bombay Presidency Association which Badruddin had helped to found, while the



other was held at the Town Hall with the Governor, Lord Lamington, presiding.

Indeed, 1906 was a tragic year for India. In that year, three Congress Presidents died—Badruddin, Bonnerjee and A. M. Bose. The Presidency Association met on October 10, 1906, to pass a resolution of condolence on the death of the three great figures. Sir Pherozeshah Mehta in his presidential speech said:<sup>58</sup>

“It was that close intimacy which association at the Bar had engendered, that discovered for us that with regard to all public affairs we really entertained convictions and sympathies almost of the same character. There we laid the foundation of the convictions which have ever since lasted all our public lives.

“I thank God that in those days I was associated with such a Hindu as Mr. Telang or with such a Christian as Mr. Bonnerjee and with such a Mahomedan as Mr. Tyabji because it was in our association with each other as Hindu, Mahomedan and Parsi that I came to recognise that, however good Parsis, Hindus and Mahomedans we might determine to be, there was a higher plane of life in which we ought to forget all our differences and distinctions of caste, of creed, and of religion. We came to work together for the people, not as Hindus, Mahomedans and Parsis but as soldiers in the public cause, standing side by side, doing our best to further, according to our lights, the interests, the development and the welfare of the common country to which we belonged and which we loved. (Applause.)

“When in 1884 Mr. Telang and myself made up our minds that the Presidency required a political association of an active character, it was to Mr. Badruddin we applied

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<sup>58</sup> *Some Unpublished and Later Speeches and Writings of the Hon'ble. Sir Pherozeshah Mehta*, edited with notes by J.R.B. Jeejeebhai. Bombay, 1918, p. 184-185.

as the representative of the third community to which he belonged, to join us in establishing and organising it. Mr. Badruddin had no hesitation, though at that time he had begun to lay the foundation of the large practice, in placing himself into our hands and joining the Association. He began his political career as the Chairman of the Council of the Bombay Presidency Association.”

“I am not in a position to recount the various services rendered by Mr. Badruddin by his sound temperate advice, which was always at our disposal, during all the public events, some of which were of a very momentous character. Many of you present, gentlemen, might still remember the remarkable fluency of language with which he pleaded the cause of the country as President of the Indian National Congress at Madras, and the persuasive logic which found its way into the hearts and minds of his hearers. It was with the greatest pleasure and sympathy that he undertook the Presidentship of that Congress and how well he acquitted himself on that occasion is known to all who have taken the trouble of reading the records of its proceedings. The words of wisdom which he then spoke might be read with benefit and advantage by every Hindu, Mussalman and Parsi up to the present.

“I think people cannot do better than pursue the wise and sagacious advice Mr. Badruddin gave on that occasion. How firmly he adhered to the convictions with which he and I started our public lives would be evidenced by the fact that in spite of all that was said against the Congress and despite the circumstances that he had been raised to the Bench of the High Court, while speaking at the Mahomedan Educational Conference, he said frankly. independently and enthusiastically that his views about the

Congress had remained absolutely unchanged. (Applause.) As I have frequently said, by becoming a common citizen of this great Empire, it is not necessary that one should cease to be an active and useful member of the community to which one might belong and well did Mr. Badruddin exemplify this in the great interest he took in the advancement of education in the Mahomedan community.”

Mr. Chimanlal H. Setalvad (as he then was) in the course of his speech at the meeting recalled the occasion when, discussing a public question with him, Mr. Justice Tyabji suddenly got up and, pacing the room with the old fire beaming in his eyes, said, “Oh, how I long and yearn for the day when I can retire and join your ranks again and work for my country!”

Mr. Dinshaw Wacha said:

“Mr Badruddin appeared to have been born a statesman. The more I knew him and the more I heard from his lips many an observation on the condition of the country, its administration, and the right and proper duty of ourselves as citizens, the deeper that conviction grew on me... There were in him all the great qualities which contribute towards the making of an eminent statesman—talents of a high order, political sagacity, tact, judgment, suavity of manners, and, above all, Catholic sympathy.”

Mr. Wacha’s speech contained one of the finest portraits of Badruddin’s personality that has ever been made. He said:

“As Moslem, he was devotedly attached to his creed, and thoroughly understood its ethics with a broad-mindedness and tolerance which deserve the highest praise. Moreover, his early training and education in England had had its great formative influence on his character which was all through discerned in his public life. As a westernised Mahomedan he could not sit inactive without reforming



his community. He rightly conceived that the first and the most important element of social reform among his co-religionists was education. The backwardness of Mahomedans in this respect he seems to have perceived from an early day; and he perseveringly endeavoured, and endeavoured with success, to lay the foundation of educational progress in his community. He chalked out the broad lines on which it should proceed. He knew well that reform meant reform first within his own domestic circle; and *pari passu* reform for the community by slow and easy gradients, in other words, on the lines of least resistance. Thus it was that he first lighted the torch of social reform in his own family and later on held it aloft illumining the way for those who had his force of character and resolution to associate with him in that noble and most beneficent work. We all know how his energy and efforts were directed towards the establishment of the Anjuman-e-Islam, and how these were crowned with success. It will for ever stand as an imperishable monument of his great social work.

“In the entire community of Mahomedans in India he was recognised as a towering personality and a power of influence for good. But more than a Mahomedan he was proud to call himself an Indian. His heart beat in unison with the aims and aspirations of our national organization, while his head had clear conceptions of the ultimate triumph of those objects. In his death, therefore, India loses one of her best sons, a pillar of progress, justice, freedom, tolerance, and catholic sympathy. It is to be feared it would be long before the country discovers another Tyabji.”

Mr. M. A. Jinnah also addressed the meeting and joined in the tributes (*The Times of India*, October 11, 1906).

Three months later, another meeting was held at the Town Hall under the chairmanship of the Governor. Among those present

at the meeting were not only the officialdom, but also public men like Sir Pherozeshah Mehta, Sir Jamsetji Jijibhoy, Mr Vithaldas G. Thakersey, Mr. D. E. Wacha, Mr. Jehangir B. Petit, Mr. Ahmed R. Sayani, Mr. H. A. Wadia, and Mr. M. A. Jinnah. Mr. H. A. Wadia who knew Badruddin both as a professional colleague and as personal friend for thirty years made a moving speech. Another fine speech was that by Dr. A. G. Viegas who referred to Badruddin as “a rare type of a most harmonious result of the combined culture of the East and West.” The meeting resolved to invite subscriptions for the erection of “a suitable and permanent memorial” in honour of the late Mr. Justice Badruddin Tyabji and appointed a committee to carry out that object. Similar meetings were held all over India. Unfortunately, however, due to various reasons, no memorial has been built so far.

## Summing Up

**B**ADRUDDIN Tyabji was one of the great Indians who early contributed to the national awakening. His speeches on the Ilbert Bill, on the age restriction for entry into the Civil Service, his active participation in the Bombay Presidency Association and in the Bombay Legislative Council helped immensely in that direction. The staunch and unflinching support he so constantly extended to the Indian National Congress was a source of great strength to that organisation in its infancy.

Perhaps his greatest service lay in articulating his broad, tolerant outlook in delineating for the Muslims a course of action which would conduce both to national integration and to the preservation of Muslim culture and the values dear to the Muslims. He evolved an easy and natural reconciliation of a distinct Muslim personality with the nation of which it was to be a proud and valued part. The Anjuman-e-Islam was his instrument for the spread of education among Muslims, for their social emancipation, their economic upliftment and, not the least, their national awakening. The Anjuman under his leadership ardently supported the Congress. When, in the evening of his life, he presided over the Mahomedan Anglo-Oriental Educational Conference, it was but to reiterate the theme he had stood for all his life.

With Pherozeshah and Telang, Badruddin was a devoted servant of the great city of Bombay. His career in the Municipal Corporation was short but he fought for municipal reform with



his friends and lived to see the success of his and their labour. The Bombay Presidency Association, which he helped to found, served as a strong link between the city and the national movement.

Eminent as he was as a lawyer, Badruddin will for ever rank among the great judges. The Bar valued his presence in its midst for his forensic acumen and his independence; his Indian colleagues, particularly, felt grateful to him as he paved the way for them. But it is as a judge and as a patriot that he is most remembered today—able, fearless and utterly blind to differences of race or religion. He was one of the rare tribe—a lawyer with a commitment to values, with a profound sense of his responsibilities and with a great pride in a calling which Bourke has described as the greatest and the noblest of all professions.

The services that he rendered to his country and community, city and profession could have come, as they did so naturally, only from a personality of truly gigantic proportions.

“Badruddin Tyabji was for years a decisive factor in the deliberations of the Congress,” wrote Gandhiji in *Harijan*.<sup>59</sup> It was not a solitary reference. Earlier, attending the Round Table Conference in London, Gandhiji had recalled Badruddin’s services.<sup>60</sup> They came to a most untimely end. The very issue of *The Indian Social Reformer*, which contained Mr. K. Natarajan’s moving account of Badruddin’s funeral, carried the text of the Viceroy, Lord Minto’s reply to the famous deputation of Muslim leaders led by the Agha Khan.<sup>61</sup> This was a step in clear opposition to the Congress to which Badruddin had given his best.

Throughout his life, Badruddin strove to break barriers. At a time when there was little social intercourse even among the

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<sup>59</sup> *Harijan*, November 18, 1839.

<sup>60</sup> *The Bombay Chronicle*, September 16, 1931. Please see also Gandhiji’s reference to him along with other moderators in *Young India*, June 8, 1921.

<sup>61</sup> The texts of the Agha Khan’s address and the Viceroy’s reply are in Appendix XII to Dr. B. R. Ambedkar’s *Pakistan at the Partition of India*, Thacker and Co. Ltd., Bombay.

Indian communities themselves, let alone between Indians and Europeans, a small but very significant step that Badruddin took, along with Mr. Charles Ollivant, was to give mixed parties. “These mixed gatherings of members of different communities,” *The Times of India* (January 8, 1883) remarked, “are now becoming an institution in Bombay, and are all the better for the absence of what used to be the inevitable nautch party. Mr. Ollivant and Mr. Tyabji have set a very pleasant example which might be usefully followed by other public men in Bombay.” Truly was Badruddin the indefatigable bridge-builder.

This endeavour to build bridges between various groups is usually fraught with heart-breaking difficulties and setbacks, and demands from those who attempt it a degree of realism and courage far above the ordinary. It was typical of Badruddin that he should have told the Hunter Commission:

“I am far from attributing the whole blame to Government; indeed, I think that the largest portion of it must fall upon the Mahomedans themselves. No one is more ready than I am to admit that the Mahomedan community could never have been reduced to their present wretched condition if it had not been to a great extent for their own indolence and bigotry and for the operation of causes one, two and three, for which they are themselves more or less responsible.”<sup>62</sup>

Having said this, he went on to voice his complaint against the British Government:

“After, however, making all allowances for these considerations, I cannot help but think that until recently they (Muslims) have not received anything like the same consideration as the other classes of Her Majesty’s subjects; and that for some reason or other they have been practically excluded from a share in the administration of the country.”

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<sup>62</sup> For the seven causes of Muslim backwardness he listed, please see page 26.



Thus at one and the same time he could rebuke Muslims for “their own indolence and bigotry” and criticise the British for giving them a raw deal. British repression of the Muslims after the Mutiny was particularly severe. “The British themselves were generally of the view that the responsibility for the ‘Mutiny’ lay on the Muslims and to avenge it they hanged thousands of Muslims even on the slightest suspicion of being implicated in the movement and confiscated the jagirs and properties of many others.”<sup>63</sup>

As a patriot, Badruddin’s most significant contribution was the concept of secularism that he envisaged and spelled out. During the period to which he belonged, India’s political unity was only a dimly perceived concept. But Badruddin had the insight to realise the needs of the unity and integrity of the nation. As *The Madras Standard* (August 23, 1906) said:

“No one had a clearer, truer, and deeper insight into the needs and requirements of the India of his time, and no one laboured more strenuously and with greater courage and steadfastness of purpose for the attainment of his objects. He was no doubt a member of an ancient Mahomedan family, distinguished alike by its high social position and by the enlightened public spirit of its members. But Mr. Badruddin Tyabji had to shape his own course. He found himself amidst a dense mass of ignorance and prejudice which most of his co-religionists had neither the courage nor the resource to face. He equipped himself for the difficult task and tackled the problem of progress of the Mahomedan community with a boldness, freedom from reserve, earnestness and zeal which could not be surpassed. Education and social reform among his co-religionists were the objects which occupied his thoughts and absorbed his energy and attention ever since he ceased to be an active politician, on account

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<sup>63</sup> *The Destiny of the Indian Muslims*, by Dr. S. Abid Husain, Asia Publishing House, Bombay, p. 22.



of his elevation to the Bench of the Bombay High Court; and it is a melancholy fact that even in the last public speech he made he exhorted his Mahomedan brethren to pay attention to social questions such as the gosha system and to the question of education.

“He had been untiring in his efforts to improve the intellectual and social condition of the Mahomedan community in order that they may be better able to co-operate with the members of the more advanced communities in furtherance of the objects common to all. His aim was Indian unity—a united India. He had the sagacity to see and the energy, capacity and patriotism to work for a brighter and more prosperous future for India. He sympathised with, and, in many cases, actively supported, all legitimate popular movements of the day, which he realised were all so many visible manifestations of a mental and moral upheaval towards a loftier destiny and a happier and more prosperous existence. His mental horizon was so wide that he could see the action and inter-action of the human forces in the struggle for a more healthy existence, from a standpoint higher than that occupied by most of his countrymen.”

The two declarations of support to the Congress even while he was a judge, one actually from the Bench, the other at the Mahomedan Anglo-Oriental Conference, the paper said, showed “that he was an Indian above all.”

Another appreciation, also from the South, is by Mr. C. Karunakara Menon (*The Indian Patriot*, September 12, 1906):

“By the unanimous voice of the Indian people he was acknowledged as one of their foremost leaders; and as a leader he realised that he represented a principle, and not a class or a community. That principle was the principle of Indian nationality, based upon our common allegiance to our sovereign and Government, and upon the consciousness of the ties which that Government had created. While

representing that principle he also recognised that the efficiency of every unit which made up that nationality was an important end. And therefore he had to be both a Mahomedan and an Indian. As a Mahomedan he did his best to promote the social welfare, the educational advancement and material prosperity of his co-religionists; and as an Indian he exerted himself for the general advancement of his countrymen at large. Being a man of the highest culture and the widest sympathies, he did not quite accept the necessity for maintaining the accretions and excrescences which grow with age in every religion and social system and which in some measure retard progress. In some respects, therefore, he went in advance of his more orthodox co-religionists, not, however, so as to alienate them, but so as to carry them with him. He was the centre of a great influence which radiated far and wide; and his example modified the sentiments and aspirations and social ideals of considerable numbers of Mahomedans. Great as he was as a leader among Mahomedans, he was greater still as leader of the Indians.”

For it needed a wise and courageous leader to point out that our unity drew its strength from the devotion of the many elements that constituted the nation, but could also be imperilled were they to be allowed to forget that, come what may, they were but inseparable parts of larger whole. Nothing that has happened affects the truth of this. If anything, in the times ahead we need even greater stress on a national consensus rising above party differences, religious fervour or regional loyalty, to build in a land which has for years seen grief and strife, a society, open, contented and prosperous, worthy of its future and its ancient past.

## Appendix I

### *Extracts from Memorandum to the Hunter Commission Regarding Muslim Education*

“To show the present deplorable state of the Mahomedan community of this Presidency in regard to high education, your memorialists beg to invite your attention to the following startling statistics taken from the Report of the Director of Public Instruction for 1880-1881:

The Deccan College has 175 students, but not a single Mahomedan. The Elphinstone College has 175 students, and only 5 Mahomedans. The Ahmedabad College has 24 students, but not a single Mahomedan. The St. Xavier's College has 71 students, and only 1 Mahomedan.

“The following figures show that the same painful state of things exists in regard to special or scientific education among Mahomedans:

The Govt. Law School has 152 scholars and only 3 Mahomedans. The Grant Medical College has 282 pupils, only 3 of whom are Mahomedans. The Poona Engineering College has 159 students, only 5 of whom are Mahomedans.

“The figures given below show that Mahomedans, as a rule, have not received any benefit from the High Schools of this Presidency:

The Poona High School has 574 students, out of whom only 12 are Mahomedans. The Sholapur High School has 110 students, out of whom only 2 are Mahomedans. The Ratnagar High School has 179 students, out of whom only 10 are Mahomedans. The Elphinstone High School has 795 students, out of whom only 17 are Mahomedans. The St. Xavier's High School has 675 students, out of whom only 19 are Mahomedans. The records of the University show that while no less than 15,247 students belonging to other communities have passed the Matriculation Examination



during the last twenty-three years (1859-81), only 48 Mahomedan youths have passed that examination during the same period.

“The figures given below show the same painful state of things in regard to secondary education:

There are 6,735 pupils learning English in the City of Bombay, out of whom only 220 are Mahomedans. There are 9,586 in Central Division, out of whom only 307 are Mahomedans. There are 977 in North Division, out of whom only 39 are Mahomedans. There are 4,459 in Northern Division, out of whom only 182 are Mahomedans. There are 2,801 in Southern Division, out of whom only 62 are Mahomedans. There are 19,965 in Sind, out of whom only 795 are Mahomedans.

“In regard to primary education, the Mahomedans have not fared much better, in as much as out of a total of 2,75,000 pupils in the Vernacular Schools of the Presidency. we find that only 33,568 are Mahomedans, while no less than 2,35,077 are Hindus.

“Your Memorialists submit that it is unnecessary to cite any further figures or statistics to establish the painful fact that from a combination of causes and circumstances, for some of which at least the educational authorities are distinctly responsible, the Mussalman population of this Presidency has been sinking deeper and deeper into ignorance, poverty and distress. Neither does it appear to be necessary to argue at length the incontrovertible proposition that this state of things ought not to be allowed to exist one day longer than possible.”

The memorial also said:

“In the next place Your Memorialists would invite your earnest attention to the question of establishing schools for agricultural and technical education, where the masses of the people could be taught scientific methods of agriculture and other practical arts, sciences and industries, as a means of obtaining their own livelihood, and at the same time forwarding the material and intellectual prosperity of the country. Your Memorialists are aware this is a most difficult and complicated question, but at the same time they feel that the time has now come for the Government to make one supreme effort for the purpose of rescuing the people from the baneful results of their own apathy and indifference in the matter. The soil of the country is being gradually impoverished, and those ancient arts and manufactures which had flourished in India for centuries have now been practically extinguished in consequence of the modern inventions of Europe and America, with the manufacture and practical working of which the people of this country are totally unacquainted.

“Under these circumstances Your Memorialists submit that the Government would only be discharging half its duty should it remain content with establishing high schools and colleges without making any efforts to make the masses of the people acquainted with these improved methods of agriculture and those practical arts, sciences and industries, and the use, manufacture and working of those inventions and mechanics which have so completely altered the face of Europe and America during the present century.

“Another important subject to which Your Memorialists would beg to direct your attention is the establishment of some schools at least of a more practical kind, where more of useful and less of ornamental instruction may be given to those who wish to adopt a mercantile or an agricultural or some other practical profession, and who do not wish to graduate at the University, or to follow any of the learned professions. Your Memorialists are of opinion that in a commercial and practical Presidency like Bombay, education would be much more general and would be much more largely supported by the wealthy and mercantile classes if suitable schools specially designed for giving a practical education were opened. As it is, all the commercial classes, whether Hindu, as for instance, the Bhattias, the Lohannas, and the Bantias, or Mussalman, as the Memons, the Khojas, and the Bohras, have steadily kept themselves aloof from all Government Schools.”

Some specific suggestions made by Badruddin Tyabji are as follows:

- (1) The establishment of primary, secondary and even high schools for Mussulman boys in all the principal centres of Mahomedan population throughout the Presidency.
- (2) The adoption of the Hindustani language as the medium of instruction in all Mahomedan schools.
- (3) That instruction in Hindustani, Persian, and Arabic should be combined with instruction in the other branches of knowledge.
- (4) That in consideration of the extreme poverty of the community, poor Mussulman boys should be admitted entirely free.



## Appendix II

### *Badruddin Tyabji's Presidential Address to the Third Indian National Congress held in Madras in 1887*

Sir T. Madhava Rao and gentlemen, I thank you most sincerely for the very great honour you have done me by electing me President of this great national assembly. (Applause.) Gentlemen, it is impossible not to feel proud of the great distinction you have thus conferred upon me, the greatest distinction which it is in your power to confer upon anyone of your countrymen. (Loud and continued applause.) Gentlemen, I have had the honour of witnessing great public meetings both in Bombay and elsewhere, but it is quite a novel sensation for me to appear before a meeting of this description—a meeting composed not merely of the representatives of any one city or even of one province—but of the whole of the vast continent of India—representing not any one class of interest, but all classes (Applause) and all interests of the almost innumerable different communities that constitute the people of India. (Applause.)

Gentlemen, I had not the good fortune to be present at the proceedings of the first Congress held in Bombay in 1885, nor had I the good fortune to take part in the deliberations of the second Congress held in Calcutta last year. But, gentlemen, I have carefully read the proceedings of both those Congresses, and I have no hesitation in declaring that they display an amount of talent, wisdom and eloquence of which we have every reason to be proud. (Applause.)

### **A Representative Gathering**

Gentlemen, from the proceedings of the two past Congresses, I think we are fairly entitled to hope that the proceedings of this present Congress will not only be marked by those virtues, but by that moderation and by that sobriety of judgment which is the offspring of political wisdom and political experience. (Applause.) Gentlemen, all the friends and well-wishers of India, and all those who take an interest in watching



over the progress and prosperity of our people, have every reason to rejoice at the increasing success of each succeeding Congress. At the first Congress in Bombay, in 1885, we had less than 100 representatives from the different parts of India; in the second Congress at Calcutta, in 1886, we had as many as 440 representatives; while at this Congress, I believe, we have over 600 delegates (Applause) representing all the different parts and all the different communities of the great Empire. I think, then, gentlemen, that we are fairly entitled to say that this is a truly representative national gathering. (Applause.) Indeed, if that tentative form of representative institutions, which has so often been asked for from Government, were granted to us, I have not the smallest doubt but that many of the gentlemen I now have the honour of addressing, would be elected by their respective constituencies to represent their interests. (Applause.)

### **Congress and Mussulmans**

Gentlemen, it has been urged in derogation of our character as a representative national gathering that one great and important community—the Mussulman community—has kept aloof from the proceedings of the last two Congresses. Now, gentlemen, in the first place, this is only partially true and applies only to one particular part of India, and is moreover due to certain special, local, and temporary causes (Applause), and in the second place, no such reproach can, I think, with any show of justice be urged against this present Congress (Applause) and, gentlemen, I must honestly confess to you that one great motive, which has induced me in the present state of my health to undertake the grave responsibilities of presiding over your deliberations, has been an earnest desire on my part to prove, as far as in my power lies, that I, at least, not merely in my individual capacity but as representing the Anjuman-e-Islam of Bombay (Loud applause), do not consider that there is anything whatever in the position or the relations of the different communities of India—be they Hindus, Mussulmans, Parsis, or Christians—which should induce the leaders of any one community to stand aloof from the others in their efforts to obtain those great general reforms, those great general rights, which are for the common benefit of us all (Applause) and which, I feel assured, have only to be earnestly and unanimously pressed upon Government to be granted to us.

Gentlemen, it is undoubtedly true that each one of our great Indian communities has its own peculiar social, moral, educational and even political difficulties to surmount—but so far as general political questions affecting the whole of India—such as those which alone are

discussed by this Congress—are concerned, I, for one, am utterly at a loss to understand why Mussulmans should not work shoulder to shoulder (Applause) with their fellow-countrymen of other races and creeds for the common benefit of all. (Applause.) Gentlemen, this is the principle on which we, in the Bombay Presidency, have always acted, and from the number, the character, the position, and the attainments of Mussulman delegates from the Bengal Presidency and from the Presidency of Madras, as well as from the North-West Provinces and the Punjab, I have not the smallest doubt that this is also the view held, with but few though perhaps important exceptions, by the leaders of the Mussulman communities throughout the whole of India. (Applause.)

### **A Congress of Educated Natives**

Gentlemen, it has been urged as a slur upon our loyalty that this Congress is composed of what are called the educated natives of India. Now, if by this it is intended to be conveyed that we are merely a crowd of people with nothing but our education to commend us, if it is intended to be conveyed that the gentry, the nobility and the aristocracy of the land have kept aloof from us, I can only meet that assertion by the most direct and the most absolute denial. (Applause.) To any person who made that assertion, I should feel inclined to say: ‘Come with me into this Hall (Applause) and look around you, (Applause) and tell me where you could wish to see a better representation of the aristocracy, not only of birth and of wealth, but of intellect, education, and position, than you see gathered within the walls of this Hall.’ (Applause.) But, gentlemen, if no such insinuation is intended to be made, I should only say that I am happy to think that this Congress does consist of the educated natives of India.

Gentlemen, I, for one, am proud to be called not only educated but a “native” of this country. (Applause.) And, gentlemen, I should like to know where among all the millions of Her Majesty’s subjects in India are to be found more truly loyal, nay, more devoted friends of the British Empire than among these educated natives. (Loud and continued applause.) Gentlemen, to be a true and sincere friends of the British Government, it is necessary that one should be in a position to appreciate the great blessings which that Government has conferred upon us, and I should like to know who is in a better position to appreciate these blessings—the ignorant peasants or the educated natives? Who, for instance, will better appreciate the advantages of good roads, railways, telegraphs and post offices, schools, colleges and universities, hospitals, good laws and impartial courts of justice—the educated natives or the ignorant peasants of this country? (Applause.) Gentlemen, if



there ever were to arise—which God forbid—any great struggle between Russia and Great Britain for supremacy in this country—who is more likely to judge better of the two Empires? Again I say, gentlemen, that in these matters it is the educated natives that are best qualified to judge, because it is we who know and are best able to appreciate, for instance, the blessings of the right of public meeting, the liberty of action and of speech, and high education which we enjoy under Great Britain, whereas probably under Russia we should have nothing but a haughty and despotic Government, whose chief glory would consist in vast military organization, aggression upon our neighbours, and great military exploits. (Applause.)

### **Are the Educated Natives Disloyal?**

No, gentlemen, let our opponents say what they please, we the educated natives, by the mere force of our education, must be the best appreciators of the blessings of a civilized and enlightened Government and, therefore, in our own interests. the best and staunchest supporters of the British Government in India. (Applause.) But, gentlemen, do those who thus charge us with disloyalty stop for a moment to consider the full meaning and effect of their argument—do they realise the full import and significance of the assertion they make? Do they understand that in charging us with disloyalty they are in reality condemning and denouncing the very Government which it is their intention to support? (Loud and continued applause.) For, gentlemen, when they say that the educated natives of India are disloyal, what does it mean? It means this: that in the opinion of the educated natives—that is to say, of all the men of light and learning, all those who have received a sound, liberal and enlightened education, all those who are acquainted with the history of their own country and with the nature of the present and past Governments, that in the opinion of all these—the English Government is so bad that it has deserved to forfeit the confidence and the loyalty of the thinking part of the population. (Applause.) Now, gentlemen, is it conceivable that a more frightful and unjust condemnation of the British Government can be pronounced than is implied in this charge of disloyalty against the educated natives of India? Gentlemen, if this charge were brought by some bitter enemies of Great Britain, if it were brought by the Russians, for example, I could understand it. But it is almost beyond my comprehension that it should come, not from enemies but from the supposed friends of the British Government (loud laughter and applause), not from the Russians but from Englishmen, who presumably want, not to destroy, but to support their Government? I say it surpasses my comprehension. (Loud applause.) Gentlemen, just consider for a moment the effect of this reckless allegation upon



the uneducated millions of the inhabitants of this country, upon the hordes of the Russians in the north, and upon the enlightened nations of Europe! I say, therefore, that the conduct of those who thus recklessly charge us with disloyalty resembles the conduct of the “foolish woodman”, who was lopping off the very branch of the tree upon which he was standing (loud applause and loud laughter), unconscious that the destruction of the branch meant the destruction of himself. (Applause and laughter.)

Happily, however, gentlemen, this allegation is as absurd as it is unfounded. It is as unjust to us as it is unjust to the Government it impeaches. But though, gentlemen, I maintain that the educated natives, as a class, are loyal to the backbone, I must yet admit that some of our countrymen are not always guarded, not always cautious, in the language they employ. I must admit that some of them do sometimes afford openings for hostile criticisms, and I must say that I have myself observed in some of the Indian newspapers, and in the speeches of public speakers, sentiments and expressions which are calculated to lead one to the conclusion that they have not fully realised the distinction between licence and liberty; that they have not wholly grasped the lesson that freedom has its responsibilities no less than its privileges. And, therefore, gentlemen, I trust that not only during the debates of this Congress, but on all occasions, we shall ever bear in mind and ever impress upon our countrymen that, if we are to enjoy the right of public discussion, the liberty of speech and liberty of the Press, we must so conduct ourselves as to demonstrate by our conduct, by our moderation, by the justness of our criticisms, that we fully deserve these—the greatest blessings which an enlightened Government can confer upon its subjects. (Applause.)

### **Europeans and Indian Aspirations**

Gentlemen, it has been sometimes urged that Europeans in this country do not fully sympathise with the just aspirations of the natives of India. In the first place, this is not universally true, because I have the good fortune to know many Europeans than whom truer or more devoted friends of India do not breathe on the face of the earth. (Applause.) And in the second place, we must be prepared to make very considerable allowance for our European fellow-subjects, because their position in this country is surrounded by difficult and complicated questions, not merely of a political but of a social character, which tend more or less to keep the two communities asunder in spite of the best efforts of the leaders of European no less than of native society. Gentlemen, so long as our European friends come to this country as merely temporary

residents, so long as they come here merely for the purpose of trade, commerce or of a profession, so long as they do not look upon India as a country in whose welfare they are permanently interested, it will be impossible for us to expect that the majority of the Europeans should fraternize with us upon all great public questions and it has, therefore, always seemed to me that one of the greatest, the most difficult, the most complicated and, at the same time, one of the most important problems to be solved is, how to make our European friends look upon India as in some sense their own country, even by adoption. For, gentlemen, if we could but induce our retired merchants, engineers, doctors, barristers, judges and civilians to make India permanently their home (Applause), what an amount of talent and ability, political experience and ripe judgment we should retain in India for the benefit of us all. (Applause.) All these great questions in regard to the financial drain on India, and those questions arising from jealousy of races and the rivalry for public employment would at once disappear. And when we speak of public poverty of India, because of the draining away of vast sums of money from India to England, it has always seemed to me strange that so little thought should be bestowed upon the question of the poverty of our resources, caused by the drain of so many men of public, political and intellectual eminence from our shores every year. (Applause.)

### Congress and Social Reform

Now, gentlemen, one word as to the scope of our action and deliberations. It has been urged—solemnly urged—as an objection against our proceedings—that this Congress does not discuss the question of Social Reform. But, gentlemen, this matter has already been fully dealt with by my friend, Dr. Dadabhai Naoroji, who presided over your deliberations last year. And I must confess that the objection seems to me strange, seeing that this Congress is composed of the representatives, not of any one class or community, not of one part of India, but of all the different parts, and of all the different classes, and of all the different communities in India. Whereas any question of Social Reform must of necessity affect some particular part or some particular community of India only—and, therefore, gentlemen, it seems to me, that although we, Mussulmans, have our own social problems to solve, just as our Hindu and Parsi friends have theirs, yet these questions can be best dealt with by the leaders of the particular communities to which they relate. (Applause.) I, therefore, think, gentlemen, that the only wise and, indeed, the only possible course we can adopt is to confine our discussions to such questions as affect the whole of India at large, and to abstain from the discussion of questions



that affect a particular part or a particular community only. (Loud applause.)

### **Subjects Before the Congress**

Gentlemen, I do not at present at least propose to say anything about the various problems that will be submitted to you for your consideration. I have no doubt the questions will be discussed in a manner and in a spirit that will reflect credit upon us all. I will only say this: Be moderate in your demands, be just in your criticism, be accurate in your facts, be logical in your conclusions, and you may rest assured that any propositions you may make to our rulers will be received with that benign consideration which is the characteristic of a strong and enlightened Government. (Applause.) And now, gentlemen, I fear, I have already trespassed, (voices of "No! no!") too long upon your time. Before I sit down, I will once more offer to you my thanks from the very bottom of my heart for the very great honour you have done me, and I pray to God that I may be enabled, in some measure at least, to deserve your approbation and justify the choice you have made and the confidence you have reposed in me. (Loud applause.) Gentlemen, I wish this Congress and all succeeding Congresses every success and every prosperity. (Applause.)

### **Tribute to the Dead**

I am very glad to see the representatives of so many different communities and parts of India gathered together this afternoon before us. This, in itself, gentlemen, is no small advantage that we, as representatives of the different parts of India, should have the opportunity of meeting and discussing together the various problems that affect us all. (Applause.) Gentlemen, I will not take up much more of your time. I say, as our Chairman, Sir T. Madhava Rao, has said: "I welcome you here," but at the same time I cannot help expressing my deep regret, a regret that I know you all share, that on this occasion we are deprived of the aid and counsel of some of those gentlemen, who laboured most earnestly for and who graced with their presence the Congress on previous occasions, and who have now, all too soon for their country's sake, passed from amongst us. Among the friends we have lost are: Dr. Athalye of Bombay and Madras, who took such an energetic part in the first Congress held in Bombay in the year 1885, and Mr. Girija Bhusan Mookerjee, whom you all know, and whom all who knew loved and respected, and who was one of the most active workers of the Congress held in Calcutta last year. Then, too, we have to mourn the loss of Mr. Dayaram Jethmall, the founder of the National Party in



Sind, and a distinguished gentleman belonging to this Presidency (though I fear I am not in a position to pronounce his name correctly), Mr. Singaraju Venkata Subbaroyudu of Masulipatam. But, to all these, gentlemen, of whose assistance and guidance we have been deprived, we must owe a lasting debt of gratitude. They, in their lifetime, spared no pains to make the Congress, either in Bombay or Calcutta, a success, as far as in their power lay. and it only remains for us, while cherishing their memories, to emulate their example. (Loud and continued applause.)

## Conclusion

Gentlemen, in addition to those of you who have been able to come to Madras, we have received numerous letters and telegrams from associations of various kinds, and from a large number of representative men in other parts of India, who for some reason or other have been debarred from being represented at or attending this Congress. We have received telegrams from Hyderabad, from all kinds of places in Madras Presidency—the names of which I shall not venture to pronounce—from Karachi, Calcutta, Dehradun, Sambur, Bangalore, Dacca, from His Highness the Maharaja of Darbhanga, Messrs. Lal Mohun and Mano Mohan Ghose, Telang, and a vast number of other places and persons too numerous for me to pretend to recapitulate. There are no less than sixty odd telegrams alone placed before me. But, gentlemen, there is one among those which I am particularly anxious to bring to your notice, and that is from our old and distinguished friend, Mr. Atkins, whom by name at least, I have not the smallest doubt, everyone of us here perfectly knows. (Applause.) Gentlemen, in his telegram he wishes this Congress and all future Congresses perfect success. (Applause.) He wishes that the unity of the different communities should be promoted and that the objects which we all have at heart should be attained. (Applause.) I think you will be of opinion that that is a very good omen. We want the assistance not only of representative men of the Indian communities, but we also want the assistance of Europeans. (Applause.) Gentlemen, while we are attempting to learn some few lessons in the art of self-government, our European friends have inherited that art from their forefathers after centuries of experience and it cannot be doubted that if we can induce our European friends to co-operate with us in these various political matters, which in point of fact affect them no less than they affect us, it cannot, I say, be doubted that it will conduce to the advantage, not only of ourselves, but of the European community also. (Loud applause.)

## Appendix III

*Letter dated the 5th January, 1888 from A.O. Hume, General Secretary of Indian National Congress to the Secretary to the Standing Congress Committee*

*Strictly Private & Confidential.*

To

The Secretary to the Standing Congress Committee.

Dear Sir,

In the course of his conversations with numerous Mahomedan gentlemen, our late honoured President discovered that in the minds of most of those who have been holding aloof from the Congress movement, an apprehension lurked that the Hindus, being numerically strongest, might, at some time, press and carry in Congress some Resolution directly hostile to Mahomedan interests.

It is needless to say that he is just as certain as I am myself that the Hindus, to say nothing of the growing Eurasian and European element, would never do anything of the kind, and that they feel that the Mahomedans are, in good sooth, their fellow countrymen, whose welfare, happiness, and contentment are their welfare, their happiness and their contentment. But there are ignorant men in all communities. You will remember the worthy gentlemen who desired to press a resolution on the Congress that cow-killing should be made penal. I am afraid that, even here, there are Mahomedans who do not feel sure that this question would have been summarily put out of Court, had not our President been a Mussalman.

Now, it is extremely desirable to render all such misconceptions impossible by a definite rule on the subject. I, therefore, drafted the subjoined rule and submitted it to our late President, to whom it is needless to say that we look to effect, during the coming year, a complete reconciliation with all those sections of our Mahomedan brethren which

have hitherto held aloof from us. This rule was approved by Mr. Badruddin Tyabji and mentioned by him to many Mahomedans here, who said that such a rule, if accepted, would completely obviate all remaining difficulties in the way of their hearty co-operation in the movement.

I now submit this rule to you and I hope you will be able to assure me that your Committee will be prepared to support a rule to this effect at the next Congress, the exact wording being left for determination when the rest of the rules are formally settled. If I can place in our late President's hands such an assurance from all our Standing Congress Committees, it will very greatly diminish the difficulties he will have to contend with. I feel sure that you will agree that this is a necessary and righteous rule, and one that, if we mean to be true brothers to them, We cannot hesitate to accept if wished for by our Mahomedan brethren.

I earnestly beg the favour of your replying to me at the earliest possible moment, as it is essential that our late President should be placed without any avoidable delay in a position to assure all his co-religionists authoritatively of the brotherly spirit, in this matter, which does really, as I know, pervade the Hindu community.

I have, etc.  
A. O. Hume,  
G. Secretary.



## Appendix IV-A

*Letter from Badruddin Tyabji to the Editor of "The Pioneer", Allahabad*

To

The Editor of *The Pioneer*.

Sir,

In the course of conversation with many of my co-religionists in regard to the late Congress over which I had the honour of presiding, I found that there were not a few who approved of the movement in principle, and accepted the resolutions thus far passed at the three Congresses that have been held, yet felt some anxiety lest, at future Congresses, resolutions that could not commend themselves to Mussalmans as a body might, in virtue of the greater numerical strength of the Hindus, be passed and they, if members, be thus committed to a participation in what they could not approve.

Having for many years in Bombay worked in public matters hand in hand with Hindus and having been a witness at the last Congress of the brotherly feeling in regard to the Mussalmans that pervades the entire body of delegates of the other religious denominations, I felt convinced that my friends' apprehensions were wholly needless. But, in order to be able to convince them. and others who share their doubts, that this is so, I requested the General Secretary to address all the Standing Congress Committees and ascertain whether they were willing that a rule should be passed, that in the case of the Mahomedan delegates unanimously or nearly unanimously objecting to the introduction of any subject or any resolution, such subject or resolution should be thereupon dropped.

All the twelve Standing Congress Committees have now replied unhesitatingly in the affirmative, and I do therefore hope that this announcement which I am now able to make authoritatively will remove any apprehension in regard to the future operations of the Congress that may still lurk in the minds of any of my Muslim brethren.

Of course, this rule refers only to new subjects that have not already been definitely dealt with by past Congresses. If there be any Mahomedans who still, after reading the discussions at the third Congress, feel themselves unable to accept the Resolutions, or any of them, which have already been passed, that is another matter, but as regards all those, who though approving what has been done, yet hesitate to take an active part in the movement for fear that at some future Congress some resolutions repugnant to Muslim feelings should be carried, I do hope that the assurance I have now been able to give them will convince them of the propriety of joining in the undertaking, in the success of which we are quite as deeply interested as either Hindus, Parsees or Christians.

Yours obediently,  
Badrudin Tyabji,  
President of the Third Indian National Congress

## Appendix IV-B

*Resolution Passed by the Congress during the Presidentship of Badruddin Tyabji in order to reassure the Muslims*

“Resolved—That no subject shall be passed for discussion by the Subject Committee, or allowed to be discussed at any Congress by the president thereof, to the introduction of which the Hindu or Mahomedan delegates as a body object, unanimously or nearly unanimously, and if, after the discussion, it shall appear that all the Hindu or all the Mahomedan delegates as a body, are unanimously or nearly unanimously opposed to the Resolution which it is proposed to pass thereon, such Resolution shall be dropped provided that this rule shall refer only to subjects in regard to which the Congress has not already definitely pronounced an opinion.”



## Appendix V

*Official letter dated 5th January, 1888 from Ameer Ali to Badruddin Tyabji*

9, Harrington Street,  
Calcutta, the 5th January, 1888

From

Ameer Ali, Esqr.,  
Honorary Secretary,  
Central National Mahomedan Association.

To

The Hon'ble Badruddin Tyabjee, Bombay.

Sir,

In continuation of my letter No. 456, dated the 28th November 1887, I have the honour to inform you that in consequence of certain erroneous impressions prevailing in some quarters as to the scope and object of the proposed conference of Mahomedans, it is considered necessary by the Committee of the Central Association to address to you and other well-wishers of the Mussalman community the following observations. You cannot be unaware of the state of utter distintegration into which Mussalman society in India has fallen within the last half century, nor of the beneful results which have followed from it and their general poverty. The absence of unanimity and cohesion on general questions of public policy and the entire neglect of all idea of self-help add to the difficulties of their situation. The conference does not propose to discuss high politics. The programme which we have set before us is extremely moderate and suited to our own progress. As a gathering of cultivated Moslems from all over India, its social and moral effect will, it is hoped, be of incalculable benefit. It must be remembered that the real advancement of our people lies in the future and as nothing

can be built without a foundation we hope by this conference to give a shape to our aspirations and lay the foundation stone of future good.

In proposing this conference we have not been actuated by any spirit of rivalry towards our Hindoo compatriots. It is our anxious desire to work in sympathy with Government and all classes of Her Majesty's subjects. Our main object is to bring about some degree of solidarity among the disintegrated masses of Mahomedan society; to reconcile in some measure the conflicting aims and objects of different sections and parties to introduce some amount of harmony among the discordant and jarring elements of which the Mussalman educated classes are composed, to devise some means of self-help for Mahomedan advancement and lean less upon Government patronage; to give a real impetus to the process of self-development perceptibly going on among our community; to safeguard our legitimate and constitutional interests under the British Government; to become the exponent of the views and aspirations of educated Mahomedan India; and to serve as the means of reconciliation between our Hindoo fellow subjects and our own community. It seems to us that no right-minded Mahomedan or Hindoo can object to this unpretentious programme. We think that the least endeavour in the direction indicated will not be without its value, that the very intermixture of cultivated Mussalmans will exercise a most beneficial effect upon Mahomedan India and prove the groundwork of substantial progress.

I remain,

Yours obediently,

Ameer Ali

P.S.:—I beg to inform you that owing to certain unavoidable causes, the conference is postponed until February, 1889.

## Appendix VI

*Official letter dated 13th January, 1888 from Badruddin Tyabji to Ameer Ali*

Sir,

I have the honour to acknowledge the receipt of your favour of the 5th inst. in continuation of your letter No. 456 of the 28th November last.

In reply I beg to state that I fully sympathise with many, if not all, of the aims and objects with which the proposed Mahomedan Conference is stated by you to have been convened. Undoubtedly it is the duty of all educated Muslims in all parts of India to do their utmost to raise their co-religionists from the deplorable state of poverty and ignorance into which they have plunged. Any combined action on the part of the leaders of our community with a view to improve our moral, social, educational and political status must therefore be welcome to all our friends and well-wishers and I need not say that nothing would give me greater pleasure than to join and take part in the deliberations of a conference convened for that purpose.

My own views are that in regard to general political questions affecting India as a whole, it is the duty of all educated and public spirited citizens to work together irrespective of their class, colour or creed.

But in regard to matters that affect our community separately or specially, I hold it to be equally the duty of all enlightened Mahomedans to do what they can individually and jointly to ameliorate the condition of our people. It is on this principle that I took part in the deliberations of Congress, lately held at Madras, and it will be on this principle that I shall be even more happy to take part in the proceedings of the proposed Mahomedan conference unless unavoidably prevented from so doing by unforeseen circumstances. I may say that February is a very inconvenient month for all people connected with the Bombay



High Court, and personally I should be glad if the date is so altered as to render my attendance more probable. Again, Calcutta is not a very convenient place and I should think that Allahabad would suit the majority of people far more than any other place that can be mentioned.

I notice that your letter is addressed to me personally and not as Secretary of the Anjuman-e-Islam, Bombay. My reply therefore must be taken to express my individual opinion, although I have every reason to believe that it is shared by all Muslims of this Presidency, and I may add the Presidency of Madras.

Yours truly,  
Badruddin Tyabji

## Appendix VII

*Letter dated 13th January, 1888 to Ameer Ali from Badruddin Tyabji*

Dear Syed Ameer Ali,

I have sent a separate note in reply to your official letter as Secretary to the Central National Mahomedan Association, and I trust you will pardon my writing to you privately also. You are no doubt aware that I took a somewhat leading part in the last Congress at Madras and I have observed with pain and regret that valued friends like yourself, Syed Ahmad Khan and Nawab Abdul Latif have thought it their duty to keep aloof from the Congress. I have not been able thoroughly to understand the grounds on which this abstention is sought to be justified but it does seem to me to be a great pity that on matters affecting all India as a whole, any section of the Mussalman community should keep aloof from the Hindus and thus retard the national progress of India as a whole. I understand your objection to be that the Hindus being more advanced than ourselves would profit more by any concessions made by Government to educated natives but surely it is our duty if possible to raise ourselves in the scale of progress, rather than to prevent other people from enjoying the rights for which they are qualified. If any proposal is made which would subject the Mussalmans to the Hindus or would vest the executive power in Hindus to the detriment of the Mussalmans, I should oppose it with all my strength, but the Congress proposes to do no such thing. Its aims are, and must be, for the benefit of all communities equally and any proposition that is disliked by the Mahomedans as a body must be excluded from it. At the last Congress I strictly followed this principle and absolutely shut out everything to which we as a body could take exception. Indeed I have already framed a rule to the effect that no proposition to which the Mussalmans generally object shall be considered by the Congress. This rule will be formally embodied in the constitution of the Congress and is I think calculated to remove your objection so far as I can understand it. Please let me know what you think of it and also whether you object

to any Congress at all in any shape or form, or only to a Congress which may possibly prejudice our community. In the latter case, I think, we would frame rules and restrictions that would obviate your difficulty. I may tell you that I have not the smallest doubt that the Congress, worked on proper principles with due restrictions and with proper safeguards for rights of our community, is capable of doing an enormous amount of good to our country, and I think we ought all to put our heads together to see whether we cannot devise means to work in harmony with our fellow subjects, while jealously protecting our own peculiar interests. Please consider these suggestions carefully and let me know your views about them. It is a sufficient misfortune to us to be divided from our Hindu fellow countrymen without being disunited among ourselves.

Yours truly,

Badruddin Tyabji

(Similar letters addressed to Sir Syed Ahmad Khan and Nawab Abdul Latif.)



## Appendix VIII

*Letter dated 24th January, 1888 from Sir Syed Ahmad Khan to Badruddin Tyabji*

My dear Badruddin Tyabji,

First of all I thank you for the kind letter you have sent me, and then offer my thanks for your kind congratulation on the honour which Her Majesty has been pleased to confer upon me. I hope you will accept my humble thanks.

The fact that you took a leading part in the Congress at Madras has pleased our Hindu fellow subjects no doubt but as to ourselves it has grieved us much.

The statement of our ideas about the Congress, and of our grounds of abstention from it, would have been appropriate if we had an opportunity of stating them before your taking a leading part in the Congress. But as everything is done I see no use of stating them now.

We do not mean “to retard the national progress of India” or “to prevent other people from enjoying rights for which they are qualified” and even if we try to do so we cannot hope to succeed, but at the same time it is not obligatory on our part to run a race with persons with whom we have no chance of success.

Your remark that “it is our duty if possible to raise ourselves in the scale of progress” is quite true, yet you should not forget the saying of our old Philosopher that “Before we get the antidote from Iraq, the snake bitten person will die.”

I, do not understand what the words “National Congress” mean. Is it supposed that the different castes and creeds living in India belong to one nation, or can become a nation, and their aims and aspirations be one and the same? I think it is quite impossible and when it is impossible there can be no such thing as a National Congress, nor can it be of equal benefit to all peoples.

You regard the doings of the misnamed National Congress as beneficial to India, but I am sorry to say that I regard them as not only injurious to our own community but also to India at large.

I object to every Congress in any shape or form whatever—which regards India as one nation on account of its being based on wrong principles, viz. that it regards the whole of India as one nation. Probably you will not like my ideas and therefore I hope you will excuse me for venturing to write so much.

Yours truly,  
Syed Ahmad

## Appendix IX

*Letter dated 18th February, 1888 from Badruddin Tyabji to Sir Syed Ahmad Khan*

High Court, Bombay

18th February, 1888

My dear Sir Syed Ahmad Khan,

I would have replied earlier to your letter of the 24th January; if I had not been waiting for answers to my communications addressed to other leading Mussalman gentlemen in different parts of India. I know that we differ materially on some important points but my object in addressing you is to ascertain if possible whether and by what means we can act in harmony with each other for the common benefit of the Mussalman community of this great Empire. No doubt where independent minds apply themselves to the consideration of great questions, differences of opinion must be expected, but at the same time I cannot help feeling that it is the duty of us to understand each other thoroughly, to appreciate their motives and by mutual concessions to bring about a common course of action. It is only with this view and with the object of healing the irritation that is now prevailing in India that I write to you again. It seems to me that there is a vital difference in the point of view from which you and I look at the Congress. In my view the Congress is nothing more and should be nothing more than an assembly of educated people from all parts of India and representing all races and creeds met together for the discussion of only such questions as may be generally admitted to concern the whole of India at large. The question then is, is it desirable that there should be a Conference of people of this description? Of course, there are questions which may be for the benefit of one race or one community or one province only but such questions ought not to be discussed in the Congress at all. It seems to me, therefore, that no one can object to a Congress of this kind, unless he is of opinion that there are no questions at all, which concern the natives of



India at large. Your objection to the Congress is that "it regards India as one Nation." Now I am not aware of anyone regarding the whole of India as one Nation and if you read my inaugural address, you will find it distinctly stated that there are numerous communities or nations in India which had peculiar problems of their own to solve, but that there were some questions which touched all those communities and that it was for the discussion of these latter questions only that the Congress was assembled.

At the time when I wrote to you I had not seen your speech at Lucknow. But I have since had an opportunity of reading it, and it is quite clear that at the time you delivered that speech, you were under the impression that the Congress was composed of Bengali Babus alone. How you should have got this idea passes my comprehension; for surely you could not have imagined that the Hindus of the Madras and the Bombay Presidencies had not taken an active part, even if you were unaware of the attitude of the educated Mussalmans of these Presidencies towards the Congress. Be that as it may, the facts are that so far as Hindus are concerned they unanimously and as a body support the Congress no matter what province they belong to; and as to the Mussalmans, the Presidencies of Bombay and Madras strongly support it while in Bengal and North West Provinces to judge from your speech there seems to be very considerable opposition to it. Under these circumstances, is it not the duty of all thoughtful Mussalmans to try to remove the causes that have given rise to these differences? We can no more stop the Congress than we can stop the progress of education. But it is in our power, by firm and resolute action, to divert the course the Congress shall take and my strong conviction is that the Mussalmans can by united action confine the Congress to such topics only as they may deem desirable or safe for discussion. Take for instance the question of the Legislative Councils. If the Mussalmans as a body do not like that the members should be elected, they could easily modify the proposition so as to suit their own interests. My policy, therefore, would be to act from within rather than from without. I would say to all Mussalmans "act with your Hindu fellow-subjects in all matters in which you are agreed but oppose them as strongly as you can if they bring forward any propositions that you may deem prejudicial to yourselves." We should thus advance the general progress of India, and at the same time safeguard our own interests. If you think that any such action can be adopted, please let me know because I cannot help regretting the extreme irritation which now exists not only among the Hindus but among a very considerable portion of educated Mussalmans.

Badruddin Tyabji

## Appendix X

*Letter dated 22nd September, 1888, from Badruddin Tyabji in reply to the letter of 9th September, 1888 from the Secretary of the Ellore Branch of the Central Mahomedan Association*

Dear Sir,

I have the pleasure to acknowledge receipt of your letter of the 9th inst. I am very glad that the Mussalmans of Ellore are taking an intelligent interest in the question about the Congress. You ask me as to the advantage to be gained by the Mussalmans by joining the Congress.

You must then in the first place bear in mind that the Congress is an association of the most intelligent leaders of the different communities in India, sent from the different parts of India to discuss the questions affecting the whole of India, with a view if necessary to make respectful and suitable representations to Government for the purpose of bringing about reforms in such parts of the Indian administration as may require them.

The Congress is not a movement by the Hindus, but is the result of the combined deliberations of the most intellectual representatives of the different communities of India. It is nothing more than an ordinary political association or Anjuman except that it is on a very much larger scale, and does not belong to any particular province but seeks to represent the wishes and desires of the whole Indian community. The question of religion has nothing whatsoever to do with it. Good government, reform in the administration, economical management of the finance, the reduction in the taxes, the expansion of education, the better administration of justice, and the larger employment of the natives of this country in Government service, etc. etc. etc., are questions, which do not affect any particular community only, but affect us all as a whole, whether we are Hindus or Mahomedans, 'or Christians or Parsees.



These are the objects of the Congress and you will thus see how utterly false and misleading is the description given by its opponents who call it a Babu or a Hindu Congress and say that its object is to gain representative government and to frighten the Government of India. This is childish nonsense and I am only astonished that people, who pretend to be educated, should allow themselves to be deluded by such language.

You ask me what advantages the Mahomedans will gain by joining the Congress. My answer is, that they will gain the same advantages as the Hindus, Parsees, or Christians, and that it is the duty of all people, who call India their motherland, to unite together for the purpose of promoting the common good of all, irrespective of the distinction of caste, colour or creed, by loyally and respectfully presenting their views to Government, in order that Government may know what the wishes of the people are and that they may, if they think proper, grant their prayer because, as you must be aware, mistakes are often made by our Rulers, not knowingly, but unconsciously, and from want of accurate knowledge of the wishes of the people. The Congress, if it is really composed of good, loyal and intelligent people, as is the desire of its promoters, will supply this information to Government.

It is pretended by the opponents of the Congress that the Government is against it, and that it looks with disfavour upon all who join it. Now this pretention is as false as it is mischievous, and I am in a position to assert that there is not a particle of truth in it. Last year while I was at Madras and had the honour of presiding at the Congress, I saw Lord Connemera, the Governor of Madras, and the Chief Officers of the Madras Government, and on my return to Bombay I have been in constant communication, not only with the Governor, Lord Reay, but with the leading European gentlemen, official and non-official, and I may tell you on the authority of a letter written by Lord Reay himself that His Excellency, far from being opposed to the Congress, declared that he welcomes public criticism on the Government and that he will not tolerate any intimidation, direct or indirect, of the people who wish to join the Congress. His Excellency ridicules the absurd stories and rumours set afloat by the enemies of the Congress, and says that in his opinion they are so contemptible as hardly to require contradiction.

It is falsely rumoured that the Government was displeased with the Anjuman-e-Islam of Bombay on account of its joining the Congress. In the letter I have above referred to, Lord Reay indignantly repudiates this assertion and points out that, so far from this being the case, the Government has lately expressed its recognition of the excellent work



done by the Anjuman by making a present to it of land worth a lac of rupees in addition to a money grant of Rs. 38,000. I hope therefore that what I have said above will convince you that it is utterly false to say that the Government is against the Congress.

It is no doubt true that some minor officials of Government are here and there found, who look with disfavour upon the Congress and its proceedings. But this is not wonderful, as, no doubt, there are many Europeans in India who dislike political reforms being granted to the natives of this country and think that we have no business to hold public meetings, or take any part in politics, and that the Indian people should do nothing but fold up their hands, and rest thankful for such small mercies as they may be pleased to show to them, and I have no doubt, that it is this class of Europeans who are either directly hostile to the natives of this country, or who think that we have no political rights at all, that look upon the Congress with hostility and in every way deter people from joining it.

There are no doubt many valiant Mahomedans in this country whose bravery consists in taunting the Bengalees for their cowardice but who tremble at the very idea of a frown from a "Saheb" and whose political code does not permit them to go beyond saying "yes" to everything that may be put forward by any European. This explains why so many people have refrained from joining the Congress. They are afraid that they will lose the favour of the Europeans, but as they have not the courage to give their true reasons openly, they pretend that they oppose the Congress because they think, "it is not good."

You ask me to explain why some of the Mahomedans have spoken against the Congress. I say that some of them are against it from ignorance of its objects and aims, some from bigotry and fanaticism, some from religious hatred of the Hindus, some from a desire of winning the good graces of the European Officers, some from a fear that their loyalty may be impugned, some from an apprehension that their chances of promotion in government services or getting some titles and honours, may be lost, some from disappointment that they were not consulted about the Congress in the first instance, some from jealousy of the other leaders who have taken a prominent part in the Congress, and lastly some, but very few, from a real conviction that the Mahomedans being numerically and intellectually inferior to the Hindus will either not be able to take a proper part in the Congress at all, or be overwhelmed by the Hindu majority.

It is this last case only which I think is entitled to our respect, as I treat the other with absolute contempt. It was with the view to avoiding

the interests of the Mahomedans being prejudiced by any possible resolution of the Congress, that I have got an express rule passed under which no proposition can be brought before the Congress, which is unanimously or nearly unanimously opposed by the Mahomedan delegates as a body.

Mahomedans can, therefore, join the Congress with a perfect conviction that no resolution which they opposed as a body can be ever submitted to the Congress, much less passed by it. I have now I think dealt with the various points connected with the Congress and will only conclude by informing you that the Anjuman-e-Islam of Bombay, which consists of all the enlightened Mahomedans of this city, has, after the fullest discussion and hearing all the objections of the opponents of the Congress, resolved to join the Congress.

A great deal of ill feeling has been caused, by the manner in which the question has been discussed, and I would therefore beg you, in coming to a conclusion, to bear in mind that “united we stand, divided we fall” and that therefore we ought to make common cause with our fellow countrymen of other races and creeds in matters in which religion is not in any way concerned.

Badruddin Tyabji

## Appendix XI

*Letter from Badruddin Tyabji dated 27th October, 1888 to A.O. Hume*

Chowk Hall

27th October, 1888

My dear Hume,

I received your letter of the 20th with the enclosure from your Jabulpore correspondence. I delayed writing to you because what I am about to say is a matter of utmost importance and though I have long been thinking about it, I thought it best to take still more time about it before communicating my views to you. I write to you, of course, as an ardent friend of the Congress desiring nothing so much as its success. You have no doubt been watching the movements of the Mahomedans; but still you are probably not so well acquainted with their feelings as I am. Again I have been discussing the matter with thoughtful members of the different communities who are all in favour of the Congress. What I write now, therefore, may be taken to represent the views not only of myself and other leading Mahomedans of Bombay, but such men as Mehta, Telang, etc. We are all of opinion that having regard to the distinctly hostile attitude of the Mahomedans, which is becoming daily more pronounced and more apparent, it is time for the friends, promoters and supporters of the Congress to reconsider their position and to see whether under the present circumstances it is or not wise for us to continue to hold Congress meetings every year. My own view is that the friction and bitterness which are caused by this agitation every year outweigh the advantages to be gained. If all the communities of India were unanimous, I think the Congress would be a very good thing and capable of doing a very great deal of good to the people of India. The prime object of the Congress was to unite the different communities and provinces into one and thus promote harmony. As it is, however, not only have the Mahomedans been divided from the Hindus in a manner they never were before but the Mahomedans



themselves have been split into two factions, the gulf between whom is becoming wider and wider every day. The Nizam and all the principal men of the state such as Salar Jung, Munir-ul-Mulk, Fateh Nawaz Jung and above all Syed Husain Bilgrami have joined the opposition led by such well-known men as Syed Ahmad, Ameer Ali and Abdul Latif. For the purpose of my present argument I assume that all these men are wrong and that we are in the right. Nevertheless the fact exists and whether we like it or not, we must base our proceedings upon the fact that an overwhelming majority of Mahomedans is against the movement. Against this array it is useless saying that the intelligent and educated Mahomedans are in favour of the Congress. If, then, the Mussalman community as a whole is against the Congress—rightly or wrongly does not matter—it follows that the movement *ipso facto* ceases to be a general or National Congress. If this is so, it is deprived of a great deal of its power to do good. It may no doubt be continued by the force and determination of some men; but it is not the same thing as if the Mahomedans had joined it as a body. I observe increasing bitterness between Hindus and Mussalmans and I observe also that a difference of views among the Mahomedan leaders produces friction and bitterness which leads to extremely evil consequences. The peculiar state of Mahomedan society renders it necessary that we should act together in all political matters but this friction comes in the way and I already find that even in Bombay we are not able to act in the same way as we did before. Under these circumstances, weighing the good against the evil, I have come to the conclusion after most careful consideration of which I am capable that it is time to cease holding Congress every year. I should like to make the Allahabad Congress as great a success as possible. I should like to have as large a representation of Mahomedans as possible and I should then like the Congress to be prorogued, say for at least five years. This would give us an opportunity of reconsidering the whole position and if necessary of retiring with dignity and would at the same time give us ample time to carry into execution our programme, which has already become very extensive. If at the end of the 5 years our prospects improve, we can renew our Congress. If not, we can drop it with dignity, conscious of having done our utmost for the advancement of India and the fusion of the different races into one.

Badruddin Tyabji

## Appendix XII

*A short appreciation of Badruddin Tyabji and a few anecdotes penned by Dr. M. R. Jayakar on February 21, 1944 for Mr. Husain B. Tyabji*

My first contact with Badruddin Tyabji was made years ago on my voyage to England to qualify myself for the Bar. We happened to be in the same ship. I was then entirely unaccustomed to English ways of dress and food. On all occasions, when I was perplexed about right behaviour either in matters of dress, deportment or other details, Mr. Tyabji promptly came to my rescue. During the two weeks' period we were together, I had ample evidence of the great qualities of head and heart which distinguished him. His kindly face, piercing eyes, stern appearance, not devoid of streaks of humour and, above all, his great independence and dignity struck me as singular qualities in an Indian who had risen to great eminence in his profession and on the Bench. That was the beginning of my acquaintance with him. In London, I saw him occasionally and I well remember the magnificent house where he lived on the outskirts of Regent's Park. It looked as if he was born to command in whatever capacity he moved amongst his friends and acquaintances. Everybody bowed to him in reverence and respect and, at the English house where he stayed with many inmates, he could command the respect and confidence of all who surrounded him. He was perfectly at home in London. He was known during his time as one of the best speakers of the English language. I have known few who could speak or write the English language with such ease and grace. He had many friends in England, and occasionally when I met him he gave me useful hints regarding my behaviour as a student in England. His notions about Indian freedom were a source of inspiration to me. The calm hope and dignity with which he pictured the future of India as a respected partner in the British Commonwealth, seemed to be his common possession with other respected leaders of thought in Bombay, notably, Kashinath Trimbak Telang and Pherozeshah Mehta. This trio, in our younger days, was regarded as a microcosm of future



India, composed of different castes, communities and creeds living in friendly association and mutual dependence. Tyabji would have laughed with scorn and contempt at the present theory of two nations, which is the stock-in-trade of certain communalists and his steady faith in the ultimate evolution of a united Indian nationality was a great corrective to us younger men.

On my return to India, after being called to the Bar, I had more frequent opportunities of observing him. He was a stern and equally kind judge—stern to the erring senior who took liberties in his court, often unconsciously, in the wrong belief that an Indian judge would not have the courage to correct British senior counsel. I can recall a few occasions when his sternness came down with stunning effect on the opprobrious ways of erring counsel. The sight of an Indian on the Bench had then become fairly familiar. But, in his time, it was a privilege which only a few eminent Indians enjoyed and these few were not always sufficiently dignified and independent in their behaviour towards the members of the English Bar. At the Bar, Tyabji was known for his stern and dignified advocacy as against his rivals who were well-known members of the English Bar. I often heard of his independence, when I was first in the High Court and one such instance I well remember because it was the subject of frequent repetition and struck me as singular in those times. It was his tussle with an impatient I.C.S. judge, who heard a criminal appeal in which a wealthy and well-known Muslim gentleman was concerned in an acute controversy with an executive officer in Gujarat. Such a fight was, in those days, an uncommon occurrence. Tyabji appeared as counsel for the Muslim gentleman. The judge, steeped in the ways of mofussil practice, was impatient and would not allow Tyabji to read the evidence in court remarking, more than once, that he had read it at home and knew the details. Tyabji sternly told him that it was not right for an appeal court judge to read the evidence beforehand without the aid of counsel's comments. It was a wrong practice which often led the judge to form an erroneous conception of the case. "Your Lordship must go through the evidence with my comments and not at home. That is your duty as a judge and, as counsel, I shall have to perform it, however odious it may be to your Lordship." Tyabji read and commented on the evidence and ultimately won the case.

To us juniors, he was of great help. The Bombay Bar was then full of great figures, of whom Inverarity was the doyen. He was always helpful to us and I can recall many instances of Inverarity's kindness to me. But there were lesser lights whose jealousies of rising Indian juniors were in proportion to their own insignificance. I remember one



such who, being conscious of his own littleness, was ever anxious to repress struggling Indian juniors. When this happened in Tyabji's court, he always came to the rescue of the junior. Having risen from the ranks, he knew the difficulties of the juniors who had never the adventitious assistance which some beginners received from European firms in those days.

His court was a terror to those who were not well prepared, especially senior men, who were sometimes disposed to presume too much on their seniority. To the shy struggling junior, on the other hand, he was the acme of helpfulness. The best way of provoking him was to create the impression that counsel was careless or prone to take liberties in his court. One morning, a certain counsel, known for his bad temper and habit of biting his lips when provoked, mispronounced, with his usual carelessness, an Indian name. It was a feminine name ending with "Bai". Counsel pronounced it as "Bhai", a masculine suffix. This created laughter in court, of which counsel took no notice, and repeated the word "Bhai" several times. Then came a stern reprimand from Tyabji. "Mr ... you have been in this country for several years. During this time, you have acquired ample fortune out of the quarrels of Indians. You have studied their legal system and their laws of succession. Surely, it is not impossible for you to pay more attention to their names. You should know by this time that "Bhai" denotes a male and "Bai" a female. What would happen in an English court if I, after several years' practice there, called a party Mr. Mary Dixon or Mr. Maud Templeton? How will an English judge take it? Won't he be shocked? I have similar feelings, which I want counsel to respect." From that day onwards, it was a strange sight to see European counsel come early to the library and take the help of Indian juniors to acquire the proper pronunciation of Indian names, if they had to appear in Tyabji's court.

His notions of Indian self-respect and honour were admirable. In an action heard before him, in which the British editor of a pro-Congress English journal in Bombay was being prosecuted for defamation, an eminent English counsel, while cross-examining the editor, cast aspersions upon the Indian National Congress. Tyabji listened to it for some time. Then we saw his turban go up, his dark goggles rearranged (he often wore them towards the end of his days on the Bench). This we knew to be a sign that something stunning was coming. "In my time," said the great judge in his sternest voice, "I have been the President of the Indian National Congress. I have always regarded it as the highest honour, higher than being on this Bench. I entertain great esteem for the Indian National Congress and for the Indian patriots connected

with it. Let me tell counsel that, in my court, no contemptuous reference to that body will be permitted.” It is needless to add that the counsel collapsed and the rest of the case was heard in proper decorum.

I used to take a great delight in sitting in his court when I was free. I learnt many things, not only relating to law and procedure but pertaining to all that makes the life of a dignified Indian so inspiring. Whenever I was free, I never lost this opportunity. Moments of leisure were not infrequent in those early days and I could not have put them to better account. To those who were courteous, he was equally so. To the arrogant and slipshod, he was crushing in reproof. In my time, there were some undeserving practitioners who got on more owing to the colour of their skin than by their own merit. It was a sight to see such counsel writhing with anger in his court at the unmasking of their unpreparedness or incompetence. One of them, who subsequently rose to eminence, was arguing a point of evidence. He tripped. The judge pointed out his mistake. He arrogantly refused to admit it. Then came the reprimand in stern terms., “Mr... a few yards beyond is an institution called the Bombay University. It periodically examines students of law. One of the papers set is on the Law of Evidence. I am quite sure that if you appear at such an examination, notwithstanding your position at the Bar, you will be ploughed.”

I have recorded here only a few instances to show that his notions about ‘Indian esteem, self-respect and dignity were very high. There were, in those days many centres of anti-Indian feeling, both amongst counsel and solicitors. He was a curse and anathema to them. In his time he proved by his genial hospitality to Britishers and Indians alike that he practised what he preached, viz., a spirit of brotherhood among members of the Bar. I was too junior in those days to be invited to the frequent parties he used to have at his magnificent house at Warden Road. But I have heard enough from my own grandfather and others as to how he formed a centre of cohesion amongst the various communities and castes of his age. His relations with British seniors of the right type were most cordial. They enjoyed in his court a courtesy and esteem which I often saw extended to leaders of the Bar in British courts. He made no distinction between British and Indian counsel, which set him in marked contrast with some Indian judges I have met in my time. The great esteem which the Bar as also the public of Bombay had for him was evident on the day of his funeral, which I had attended. Along with the family mourners in the front marched a few of the eminent English counsel of the Bombay Bar. They walked a long distance from his home to the cemetery hushed in reverence for his name. In my later days, I often missed him, especially in the Courts of some judges,



conspicuous by their habitual obsequiousness to English counsel. He seemed a great contrast to such judges. He has gone, but his name is still a precious memory at the High Court. It is a pity that there is no portrait of his adorning the walls of his court room. It is time that such a memorial was raised to one who, in the early days, built up the traditions of the Bar.

He was the adored centre of a family group known in later days for their broad and liberal tendencies. It became common knowledge amongst Indians that any person connected with Tyabji's house was always to be trusted as a non-communal, friendly factor in the evolution of an Indian nationality. In later years, his nephew and son-in-law, Abbas Tyabji, exemplified such friendly outlook in public life. I met later several of his relations in social or political life and I always found them possessed of a broad national outlook and wide sympathies. So great was the tradition he left behind. Are we in danger of losing it under the influence of maddened communalists? Time alone will show.

M. R. Jayakar



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## Index

- Aden, 100  
Ahmadi, Ibrahim, 98  
Akhbar Book, 6, 98  
Aga Khan, 89  
Aligarh Muslim University, 89, 94  
Ameer Ali, Syed, 57, 58, 65, 67, 137, 138, 139, 141, 152  
Anglo-Indian Community, 38  
Anjuman-e-Islam 17, 20, 21, 22, 48, 55, 60, 74, 78, 79, 113, 115, 125, 140, 148, 150  
Appellate Court, 85  
Arms Act, repeal of, 62  
Ashburner, L.C., 22  
Athalye, 130  
Atkins, 131  
Aulad Ali Meer, 6
- Baig, Hamid, 107  
Balzani, Count, 106  
Bangalee, Sorabji, 16  
Bannerjee, Surendranath, 62  
Beck, Theodore, 73, 74  
Bhawanagaree, 86, 101  
Bilgrami, Syed Husain, 152  
Blaney. Thomas, 16, 17  
Bombay District Municipal Act (Amendment) Bill, 40  
Bombay Education Society, 23  
*Bombay Gazette*, 9, 20
- Bombay Legislative Council, 19, 29, 115  
Bombay Local Boards' Bill, 40  
Bombay Presidency Association, 51, 52, 53, 54, 88, 109, 111, 115, 116  
Bonnerjee, W.C., 7, 54, 56, 72, 110  
Bose, A.M., 110  
British Commonwealth, 153  
British House of Lords, 68  
British Parliament, 38, 53  
Brodie, William, 87  
Burke, 101
- Cama, Bhikaiji Rustom (Mrs.), 101  
Cama, Rustom K. R., 28  
Campbell, Lord, 4  
Connemera, Lord, 148  
Central National Mahomedan Association, 57, 141, 137, 147  
Chambers, 86  
Chandavarkar, Narayan, 28, 62, 63  
Christianity, 26  
Cicero, 39  
Code of Criminal Procedure, 34, 36  
Connon, Henry John, 16  
Crawford, Arthur, 15
- Dada Makba Madrasa, 3  
Dandi March, 21

- Dawar, D. D., 84  
 Dawood, Syedna, 3  
 Declaration of faith, 4, 5  
 Dharamsi, Abdulla Meherali, 54, 78  
 Dixon, Mary, 155  
  
 East India Association, 32, 51, 52, 102  
 East India Company, 1  
 Education Commission, 24, 27  
 Effendi, Obeidulla, 107  
 Elocution Prizes, 6  
 Erle, Justice, 4  
  
 Faiz, 100, 105, 106, 107  
 Faizul Hasan, 98, 99  
 Fawcett, 18  
 Fergusson, James, 22, 31  
 Forbes, James, 15, 16, 17  
 Framji Cawasji Institute, 18, 48, 51, 52  
 Framji Dosabhoy, 16  
 Frere, Battle, Sir, 16  
 Furdoonji, Naoroji, 16, 17, 51, 52  
 Fyzee, Asaf A.A., 2  
  
 Gandhi, M. K., 14, 116  
 Gandhi, Veer Chand, 14  
 Ghose, Mano Mohan, 131  
 G.L.P. Railway Co., 85  
 Gokaldas, Morarji, 18  
 Gokhale, G. K., 101, 106, 109  
 Gokhale, N. V., 28  
 Gosha system, 119  
 Government Law College, 27  
 Government of India Act, 1  
  
 Haj, 2  
 Haji Bhai, 2  
 Hakeem, Mohammad Husain, 74  
  
 Hali, Khwaja Altaf Husain, 89  
 Hancock, Captain, 16  
 Harris, Lord, 53, 73  
 Hidayatulla, Munshi, 21  
 Highbury New Park College, 5  
*Hindu, The*, 62  
*History of the Indian National Congress*, 95  
 Hope, Anthony, 100  
 House of Commons, 18, 68  
 Hume, Allan Octavian, 54, 58, 62, 63, 64, 68, 70, 71, 74, 76, 77, 78, 132, 133, 151  
 Hunter Commission, 20, 22, 117, 121  
 Hunter, William W., 24  
  
 Ilbert Bill, 34, 35, 36, 81, 115  
 Ilbert, Courtney, 101  
 Indian Civil Service, 47  
 Indian National Congress, Bombay, 54, 56; Calcutta, 56, 58; Madras, 59, 63, 124; Allahabad, 71, 74, 77, 152  
 Indian National Union, 54  
*Indian Patriot*, 119  
*Indian Social Reformer*, 108, 116  
 Insolvency Court, 13  
 Issur, Kessowji, 85  
  
 Jayakar, M. R., 83, 153, 157  
 Jenkins, Lawrence, Sir, 86, 107  
 Jethmall, Dayaram, 130  
 Jijibhoy, Jamestji, 16, 17, 36, 48, 52, 54, 89, 108, 114  
 Jinnah, M. A., 113, 114  
 Jung, Fateh Nawaz, 152  
  
 Kabraji, Kaikhosroh, N., 23, 86  
 Kadir, Abdul, 101  
 Kapadia, Jamsetji Pallonji, 117



- Kesari*, 84  
 Karelwadi, 108  
 Kelly, Fitzroy, 6  
 Khare, Daji Abaji, 108  
 Khetwadi, 12  
 Khote, R. N., 36  
*Kitab-e-Akhbar-e-Kabila-e-Tyabi*, 3  
 Knight, Robert, 16  
 Koran, 3, 4, 103  
  
*Lahore Observer*, 101  
 Lal Mohun, 131  
 Lamington, Lord, 89, 110  
 Lang, 20, 83  
 Lancashire, 18  
 Latif, Nawab Abdul, 66, 67, 141, 142, 152  
 Lecky (Mrs.), 101  
 Legislative Council, 19, 29, 30, 31, 33, 34, 35, 47, 115, 146  
 London-Indian Society, 101  
 Lowndes, 109  
 Lytton, Lord, 18, 97  
  
 Maclean, James, 16  
*Madras Standard*, 90, 118  
 Mahableshtar, 98  
 Mahomedan Anglo-Oriental Educational Conference, 68, 89, 91, 92, 115, 119  
*Malis-e-Munsarim*, 21  
 Malabari, Byramjee, 79  
 Mandlik, Vishwanath, 16  
 Maxwell, Hamilton, 16  
 Mecca, 103  
 Meher Ali, Mulla, 3  
 Mehta, Sir, Pherozechah, 7, 9, 14, 15, 16, 18, 23, 34, 39, 51, 53, 58, 61, 77, 96, 110, 114, 151, 153  
 Menon, C. Karunakara, 119  
 Merriman, Major-General, 46  
 Minto, Lord, 116  
 Mitter, Romeshchander, 33  
 Mody, Homi, Sir, 15, 54  
 Mohsin-ul-Mulk (Nawab), 66, 88, 89, 94, 95  
 Moliere, 5  
 Mookherjee, Girija Bhusan, 130  
 Morarjee, Nana, 23  
 Morley, Lord, 104, 105  
*Morning Post*, 6  
 Morrison, 89, 101  
 Mudaliar, Salem Ramaswamy, 62  
 Municipal Act (1872), 17  
 Munir-ul-Mulk, 152  
 Munshi, G. M., (Khan Bahadur), 21, 74  
 Munshi, Moti Lal, 81  
 Muslim Wakf, 83, 94, 108  
 Mutiny, 1, 27, 73, 118  
*My Experiments with Truth*, 14  
  
 Naroji, Dadabhai, 7, 35, 51, 53, 56, 72, 101, 109, 129  
 Napoleon, 100  
 Natarajan, K., 108, 116  
 Natesan, G. A., 63, 158  
 Nomani, Moulana Shibli, 95  
  
 Ollivant, Charles, 117  
  
*Punch*, 4  
 Panchayati Raj, 40  
 Parek, C. L., 18  
*Parsee*, 23, 99  
 Parsons, Justice, 13, 14, 84  
 Pattabhi, Sitaramayya, B., 95  
 Peile, J.B., 45, 46  
 Petit, Dinshaw M., 32, 55, 114

- Petit, Jehangir, B., 114  
*Phroso*, 100  
*Pioneer, The*, 65, 71, 134  
*Plautus*, 5  
 Pollock, F., 81, 106  
 Privy Council, 85  
 Pundit, S. P., 23  
 Purdah system, 94, 105  
  
 Rahimtoola, Ibrahim, 108  
 Raikes, 86  
 Ranade, Mahadev Govind, 13, 16, 79, 84  
 Rao, T. Madhava, 124, 130  
*Rast Goftan*, 81, 86  
 Rasti, K. V., (Rao Bahadur), 46  
 Rate-Payers' Association, 15  
 Ravenscroft, 29  
 Reay, Lord, 47, 81, 106, 148  
 Ripon, Lord, 32, 33, 35, 40, 47, 48, 50, 96, 101  
 Rogay, Nakhoda Mohemmad Ali, 20, 21, 78  
 Round Table Conference, 116  
 Russel, Justice, 18, 109  
 Russia, 107, 127  
  
 Salman, 107  
 Salvation Army, 87  
 Sayani, Ahmed R, 114  
 Sayani, Rahimtulla, 22, 54  
 Scoble, Andrew, 78  
 Scott, 97  
*Seattle Post Intelligencer*, 109  
 Setalvad, Chimanlal, 8, 28, 81, 86, 108, 112, 158  
 Shakespeare, 5  
 Shamsuddin, 5  
 Sind, 41, 122, 131  
 South Africa, 88  
*Speeches and writings of the Hon'ble Sir Pheroza Shah Mehta*, 39  
 Strange, Le, 106  
 Strachey, 105  
 Subbaroyudu, Singaraju Venkata, 131  
 Supreme Legislative Council, 33, 35  
 Syed Ahmad Khan, 66, 67, 88, 89, 141, 142, 143, 145, 158  
  
*Talisman, The*, 100  
 Telang, Kashinath Trimbak, 14, 29, 34, 39, 51, 58, 76, 77, 79, 92, 110, 115, 131, 151, 153  
 Templeton, Maud, 155  
 Thakersey, Vithaldas G., 114  
 Thomas, Sir, 16, 17, 103  
 Tilak, Bal Gangadhar, 79, 84, 86, 108  
*Times of India*, 8, 13, 17, 19, 23, 34, 35, 39, 48, 52, 62, 68, 79, 81, 108, 113, 117  
 Tobin and Roughton, 19  
 Taj Mahal, 63  
 Twain, Mark, 100  
 Tyab Ali, 1, 2, 3, 4, 6, 158  
 Tyabji, Abbas S., 21  
 Tyabji, Amiruddin, 78, 98  
 Tyabji, Badruddin, parents, 1; birth and education, 4; leaves for England, 4; receives Special Certificate of Honour from College, 5; death of father, marriage, 6; on national language, death of mother, at the Bar, 7; first Indian Barrister of Bombay High Court, 8; letter to his son, 10; participates in

public life, 15; interest in Muslim education, 17, 20; protest against duties on cotton goods, 18; member of Legislative Council, Bombay, 19; becomes secretary of a school, 22; evidence before the Education Commission, 24; love of Hindustani and Persian, on vocational education, 25; becomes professor, 27; on Local-self Government in India, 31, 40; on Lord Ripon, 33, 50; on Indian magistrates, 33; on Pherozeshah Mehta, 39; meeting with Viceroy, 40; his faith in local autonomy, 43; resigns from Legislative Council, leaves for Europe, 47; joins Bombay Presidency Association, 51, 53, 55; delegate to Indian National Congress (1885), 54; leaves for England, 56; President, Indian National Congress (Madras), 59; on Hindu-Muslim relations, 72; circular to British electorate, 73; his letter to Secretary, Central Mahomedan Association, 75; represents Anjuman in the Congress, 78; activities relating to education

and social reforms, 79; his role as Judge, 80, 84; presides over Mahomedan Anglo-Oriental Educational Conference, 89; on Urdu, on purdah system, 94, 95; death of wife, 99; leaves for Europe, 100; addresses East India Association, 102; death, 107; tributes, 109, 119.

Tyabji, Camruddin, 4, 8, 21, 54, 78, 105, 106

Tyabji, Husain, 8, 100, 105

Tyabji, Mohsin, 49, 50

Vernacular Press Act, 33

Viceroy's Council, 68, 79

Victoria, Queen, 1

Proclamation of, 2

Queen's Bench, 4

Vishram, Fazulbhai, 78, 101

Wacha, Dinsha E., 39, 52, 58, 112, 114

Wadia, Hormusji, 7, 114

Wagle, B. M., 23

Wassudeo, Narayan, 16

Wazir Bibi, 105

Weekly Champion, 86

Westrop, Michael, Sir, 81, 82

Wightman, Justice, 4

Wood, Martin, 16

Yusuf Ali, 101, 108







Badruddin Tyabji (1803-1906) was a titan of the late 19th century India when the country was taking its first steps to freedom. Tyabji was a man of many parts-statesman, leader, social reformer, educationist and jurist. He had the distinction of being the first Indian Barrister of Bombay High Court. An ardent advocate of Hindu-Muslim unity, Tyabji believed that cultural and religious diversities were no bar to united action of advancing the interests of the country. He spread the concept of secularism at a time when it had little significance in the political affairs of the country. Tyabji spared no pains to strengthen the newly formed Indian National Congress and presided over its third session(1887) at Madras (Chennai).

A.G. Noorani presents an insightful account of this great personality.



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